By Mr. MOORE of Kentucky: A bill (H. R. 7791) granting an increase of pension to George T. Reid; to the Committee on Pensions.

By Mr. MURPHY: A bill (H. R. 7792) granting a pension to Lillian M. Johnson; to the Committee on Pensions.

By Mr. PURNELL: A bill (H. R. 7793) for the relief of Irvin Leonard Garver; to the Committee on Naval Affairs.

By Mr. RAMSEYER: A bill (H. R. 7794) granting a pension to Sarah D. Dewit; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7795) granting a pension to Nancy Blitz; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7796) granting an increase of pension to Jeanette Collins; to the Committee on Invalid Pensions.

By Mrs. ROGERS: A bill (H. R. 7797) for the relief of Rebecca E. Olmsted; to the Committee on Claims.

By Mr. RUBEY: A bill (H. R. 7798) for the relief of Wilbur Stookey; to the Committee on Claims.

By Mr. SABATH: A bill (H. R. 7799) for the relief of William Chinsky; to the Committee on Claims.

Also, a bill (H. R. 7800) for the relief of Olaf Nelson; to the Committee on Claims.

By Mr. SIMMONS: A bill (H. R. 7801) granting an increase of pension to Lewis M. Kennedy; to the Committee on Invalid Pensions.

By Mr. STOBBS: A bill (H. R. 7802) granting an increase of pension to Hannah J. Blake; to the Committee on Invalid Pensions.

By Mr. SWEET: A bill (H. R. 7803) granting an increase of pension to Poppie H. Winslow; to the Committee on Invalid Pensions.

By Mr. SWOOPE: A bill (H. R. 7804) granting an increase of pension to Nancy A. Blakeley; to the Committee on Invalid Pensions.

By Mr. TAYLOR of West Virginia: A bill (H. R. 7805) granting a pension to William A. Hawkins; to the Committee on Pensions.

By Mr. THOMAS: A bill (H. R. 7806) granting an increase of pension to John E. Stinson; to the Committee on Pensions.

By Mr. VINSON of Georgia: A bill (H. R. 7807) for the relief of Lucy Sanford; to the Committee on Military Affairs.

By Mr. WILSON of Mississippi: A bill (H. R. 7808) granting an increase of pension to George A. McHenry; to the Committee on Pensions.

Also, a bill (H. R. 7809) for the relief of H. H. Hinton; to the Committee on Claims.

By Mr. YATES: A bill (H. R. 7810) granting a pension to Cora Murphy; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

381. By Mr. BEERS: Petition of the vice president of the Potomac Savings Bank, recommending paving of Wisconsin Avenue, Washington, D. C.; to the Committee on the District of Columbia.

382. By Mr. CONNERY: Resolution urging the passing of a bill to return the property of enemy aliens; to the Committee on Interstate and Foreign Commerce.

383. By Mr. FENN: Petition of the National Association of Letter Carriers, Branch 60, Stamford, Conn., requesting support of the Stanfield-Lehlbach bills (S. 786 and H. R. 7) proposing amendments to the civil service retirement act; to the Committee on the Civil Service.

384. By Mr. W. T. FITZGERALD: Petition of J. M. Wise and sundry letter carriers of Piqua, Ohio, requesting enactment of H. R. 7; to the Committee on the Civil Service.

385. By Mr. GALLIVAN: Petition of Frank W. Whitcher, of the Frank W. Whitcher Co., Boston, Mass., recommending early and favorable consideration of H. R. 5840; to the Committee on Military Affairs.

386. By Mr. KIEFNER: Petition of the Jefferson County Press Association, asking support of H. R. 4478, opposing the governmental practice of selling special-request envelopes; to the Committee on the Post Office and Post Roads.

387. By Mr. YATES: Petition of the Grundy County Farm Bureau Federation, praying that Congress pass a law based on the principle of a farmers' export corporation, providing for the creation of an agency to handle the surplus of farm products; also praying for the passage of an amendment to the pure food act so that corn sugar be not classed as a substitute; to the Committee on Agriculture.

388. Also, petition of the estate of R. W. Roloson, by R. M. Roloson, executor, 209 South La Salle Street, Chicago, protesting against injustice done by the 1924 Federal estate tax act and asking that provision for a refund be incorporated in the new revenue bill; to the Committee on Ways and Means.

SENATE

SATURDAY, *January 16, 1926*

The Chaplain, Rev. J. J. Muir, D. D., offered the following prayer:

Our Father, Thou dost love us. We sometimes forget our devotion to Thee and to the work of Thy kingdom in the world; but we humbly beseech Thee to consider us patiently, tenderly, and enable us to extend Thy word and walk in Thy ways, so that whatever comes to us we may be enabled to fulfill Thy good pleasure. Hear us, we beseech of Thee. Guide our thoughts this day to Thy glory. For Jesus' sake. Amen.

The Chief Clerk proceeded to read the Journal of the proceedings of the legislative day of Wednesday, the 13th instant, when, on request of Mr. CURTIS and by unanimous consent, the further reading was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Farrell, its enrolling clerk, announced that the House had passed a bill (H. R. 6773) to authorize the settlement of the indebtedness of the Kingdom of Italy to the United States of America, in which it requested the concurrence of the Senate.

CALL OF THE ROLL

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Fernald	Keyes	Robinson, Ark.
Bayard	Ferris	King	Sackett
Bingham	Fess	La Follette	Sheppard
Blease	Fletcher	Lenroot	Shipstead
Borah	Frazier	McKellar	Shortridge
Bratton	George	McKinley	Simmons
Brookhart	Gerry	McLean	Smith
Broussard	Gillett	McMaster	Smoot
Bruce	Glass	McNary	Stanfield
Butler	Goff	Metcalf	Stephens
Cameron	Gooding	Moses	Swanson
Capper	Greene	Neely	Trammell
Caraway	Hale	Norris	Tyson
Copeland	Harreld	Nye	Underwood
Couzens	Harris	Oddie	Walsh
Curtis	Harrison	Overman	Warren
Dale	Heflin	Pepper	Watson
Deneen	Howell	Pine	Wheeler
Dill	Johnson	Pittman	Williams
Edge	Jones, N. Mex.	Ransdell	Willis
Edwards	Jones, Wash.	Reed, Mo.	
Ernst	Kendrick	Reed, Pa.	

Mr. SHEPPARD. I wish to announce that my colleague [Mr. MAYFIELD] is detained from the Senate by illness. I will let this announcement stand for the day.

The VICE PRESIDENT. Eighty-six Senators having answered to their names, a quorum is present.

PETITIONS AND MEMORIALS

Mr. LA FOLLETTE presented memorials numerously signed by citizens of Waukesha, Sauk, and Chippewa Counties, Wis., remonstrating against the participation of the United States in the Permanent Court of International Justice, which were ordered to lie on the table.

Mr. FERRIS presented memorials numerously signed by sundry citizens of Kalamazoo, Detroit, Fort Huron, Allegan, and Owosso, Oakland, and Wayne Counties, Mich., remonstrating against the participation of the United States in the Permanent Court of International Justice, which were ordered to lie on the table.

Mr. WILLIS presented resolution adopted at a meeting of the Associated Irish Organizations, of Cincinnati, Ohio, protesting against the participation of the United States in the Permanent Court of International Justice, which were ordered to lie on the table.

Mr. JONES of Washington presented a petition of sundry citizens of Clarkston, Wash., praying the repeal or removal of the so-called war and nuisance taxes, especially the tax on industrial alcohol used in the manufacture of medicines, home remedies, and flavoring extracts, which was referred to the Committee on Finance.

Mr. FRAZIER presented the petition of J. W. McCarty and 215 other citizens in the State of North Dakota, praying the repeal or removal of the so-called war and nuisance taxes, especially the tax on industrial alcohol used in the manufacture of medicines, home remedies, and flavoring extracts, which was referred to the Committee on Finance.

He also presented the memorials of H. E. Salter and 63 other citizens and of T. O. Soine and 62 other citizens in the State of North Dakota, remonstrating against the participation

of the United States in the Permanent Court of International Justice, which was ordered to lie on the table.

Mr. BINGHAM presented resolutions adopted by the board of directors of the Connecticut Chamber of Commerce, expressing gratification at the terms of the debt settlement arrived at with the Italian Government and favoring the taking up of the French debt-settlement question with assurances to the Government of France that further examination of the situation will be made by our Government, which were referred to the Committee on Foreign Relations.

He also presented a resolution adopted by the Manufacturers' Association of Connecticut, favoring the repeal of the Federal gift and estate taxes and a substantial reduction of the income surtaxes, and the elimination of the tax-publicity provision of existing law, which was referred to the Committee on Finance.

He also presented resolutions adopted by Metal Polishers' International Union, of Hartford, and Local Union No. 418, Brotherhood of Painters, Decorators, and Paperhangers of America, of Naugatuck, in the State of Connecticut, praying a congressional investigation of the plans and activities of the so-called Bread Trust, which were referred to the Committee on Agriculture and Forestry.

He also presented resolutions adopted by the consolidating divisions, Nos. 1, 2, 3, and 5, Ancient Order of Hibernians, of New Haven, Conn., protesting against the participation of the United States in the Permanent Court of International Justice, which were ordered to lie on the table.

He also presented petitions and papers and telegrams, in the nature of petitions, from the Woman's Christian Temperance Union of the State of Connecticut; the Woman's Christian Temperance Unions of Hartford, Willington, Cromwell, and Canterbury; representatives of more than 40 churches in Tolland County; the Scandinavian Grand Lodge of Connecticut, International Order of Good Templars; the New London County and Sound Beach Leagues of Women Voters; the Plymouth Woman's Federation; the World Court Committees of New Haven and Waterbury; and of sundry citizens of Cornwall, all in the State of Connecticut, in favor of the participation of the United States in the Permanent Court of International Justice, which were ordered to lie on the table.

He also presented a communication from J. C. Tracy, president of the New Haven (Conn.) Chamber of Commerce, setting forth the results of a referendum taken among its members and of the service clubs of New Haven relative to the participation of the United States in the Permanent Court of International Justice, which was ordered to lie on the table.

Mr. FLETCHER. I present a telegram in the nature of a petition, which I send to the desk, and ask to have printed in the RECORD and referred to the Committee on Finance.

There being no objection, the telegram was referred to the Committee on Finance and ordered to be printed in the RECORD, as follows:

TAMPA, FLA., *January 15, 1926.*

Hon. DUNCAN U. FLETCHER,
United States Senate, Washington, D. C.

We appreciate your efforts toward cigar tax reduction and thank you for results so far obtained, but wish to make further appeal in favor of Class D and E, as individual judgment of our members is that the high revenue stamps rates on class D cigars selling above 15 cents and up to 20 cents, and class E cigars selling above 20 cents need a more substantial reduction than proposed. We base our plea on the facts that class D cigars are now paying a 400 per cent increase and class E cigars a 500 per cent increase over former rate. Tampa is a large producer of the class D and E cigars, employing the highest skilled labor on such cigars, and they come in direct competition with the imported article. To foster and preserve this home industry a more substantial reduction in taxes we feel is urgently needed, and if our plea of a 50 per cent reduction is granted on such classes, we will still be paying a 100 per cent increase on class D and 150 per cent increase on class E over the former rates, which would still leave a substantial burden on these classes.

Gratefully yours,

THE CIGAR MANUFACTURERS ASSOCIATION OF TAMPA, FLA.

Mr. GREENE presented the following joint resolution of the Legislature of the State of Vermont, which was ordered to lie on the table:

Whereas we believe that the United States of America should no longer fail to take advantage of every opportunity that may be offered whereby her powerful influence may be exerted in an attempt to provide some method by which international disputes may be settled by arbitration under law, instead of resorting to physical warfare, usually ending not in a just settlement but with a continued hatred and spirit of revenge.

Resolved by the Senate and House of Representatives, That we consider it most desirable for the United States Senate, without further delay, to adopt such method as may seem best to express a desire and purpose for the United States to participate in the World Court on the Harding-Hughes terms, as approved by President Coolidge, in order that our influence may be felt and good accomplished thereby; and be it further

Resolved, That the Secretary of State be directed to forward copies of this resolution to Senators Frank L. Greene and Porter H. Dale and Congressmen Frederick G. Fleetwood and Ernest W. Gibson, with a request that this action of the legislature receive their prompt attention.

W. K. FARNSWORTH,
President of the Senate.
ROSWELL M. AUSTIN,
Speaker of the House of Representatives.

Approved February 10, 1925:

FRANKLIN S. BILLINGS, *Governor.*

STATE OF VERMONT,
OFFICE OF SECRETARY OF STATE.

I hereby certify that the foregoing is a true copy of a joint resolution entitled "Joint resolution relating to the participation of the United States in the World Court," approved February 10, 1925.

In testimony whereof I have hereunto set my hand and affixed my official seal at Montpelier this 11th day of February, A. D. 1925.

[SEAL.] RANSON C. MYRICK,
Deputy Secretary of State.

REPORTS OF COMMITTEES

Mr. CAMERON, from the Committee on Military Affairs, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

A bill (S. 2298) to amend section 3 of the act approved September 14, 1922 (ch. 307, 42 Stat. L. pt. 1, pp. 840 to 841; Rept. No. 42); and

A bill (S. 2475) to amend an act entitled "An act to provide for the equitable distribution of captured war devices and trophies to the States and Territories of the United States and to the District of Columbia," approved June 7, 1924 (Rept. No. 43).

Mr. KING. From the Committee on the Judiciary I report back without amendment the bill (S. 2119) to amend section 37 of the act entitled "An act to codify, revise, and amend the penal laws of the United States," approved March 4, 1909, as amended. I wish to state that on Monday next I shall file a report to accompany the bill.

The VICE PRESIDENT. The bill will be placed on the calendar.

BATTLE FIELDS OF APPOMATTOX COURT HOUSE, VA.

Mr. CAMERON. From the Committee on Military Affairs I report back favorably without amendment the bill (S. 1493) to provide for the inspection of the battle fields and surrender grounds in and around old Appomattox Court House, Va., and I submit a report (No. 41) thereon.

Mr. SWANSON. Mr. President, I ask unanimous consent for the immediate consideration of the bill just reported by the Senator from Arizona. The bill provides for an appropriation of only $3,000. The expenditure is to be made for the purpose of marking the historical spots on the battlefield of Appomattox. It is similar to other bills which have been passed here a number of times as to other historical battle fields. Persons having knowledge with reference to the events which took place at Appomattox Court House and vicinity are rapidly growing less in number, and it is desired that these historical places shall be designated by markers while those who are familiar with the locality are still living.

Mr. CURTIS. Is there a unanimous report on the bill?

Mr. SWANSON. The bill is unanimously reported.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

Be it enacted, etc., That a commission is hereby created, to be composed of the following members, who shall be appointed by the Secretary of War:

(1) A commissioned officer of the Corps of Engineers, United States Army;

(2) A veteran of the Civil War who served honorably in the military forces of the United States; and

(3) A veteran of the Civil War who served honorably in the military forces of the Confederate States of America.

SEC. 2. In appointing the members of the commission created by section 1 of this act the Secretary of War shall, as far as practicable, select persons familiar with the terrain of the battle fields and

surrender grounds of old Appomattox Court House, Va., and the historical events associated therewith.

SEC. 3. It shall be the duty of the commission, acting under the direction of the Secretary of War, to inspect the battle fields and surrender grounds in and around old Appomattox Court House, Va., in order to ascertain the feasibility of preserving and marking for historical and professional military study such fields. The commission shall submit a report of its findings to the Secretary of War not later than December 1, 1926.

SEC. 4. There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $3,000 in order to carry out the provisions of this act.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time.

The VICE PRESIDENT. The question is, Shall the bill pass?

Mr. REED of Missouri. Mr. President, before the bill is passed—it was read rather hurriedly—I should like its author to make some explanation of it.

The VICE PRESIDENT. The Senator from Virginia [Mr. SWANSON], who introduced the bill, has made an explanation of it.

Mr. SWANSON. I will again state, for the benefit of the Senator from Missouri, that this bill is similar to other bills which have been passed proposing to mark historical spots on battle fields. As the persons who participated in the battles on those battle fields are rapidly passing away, it is important that early action be taken. This bill proposes an inspection of the battle field and surrender grounds in and around old Appomattox Court House, Va. It is proposed to locate the places where the historical and important events occurred and to designate them by markers. A commission is provided to do this work. I will state that this bill is similar to bills which have heretofore passed having the same object in view with reference to Petersburg, Chancellorsville, and other fields of battle during the war between the States.

Mr. REED of Missouri. Does the bill appropriate any money?

Mr. SWANSON. It only provides for an appropriation of $3,000 to pay the expenses of the commission, to enable them to make a report.

Mr. REED of Missouri. The bill merely provides for the appointment of a commission to report?

Mr. SWANSON. It provides only for the appointment of a commission to report.

Mr. JONES of Washington. Let me ask the Senator from Virginia whether the bill makes the appropriation or simply authorizes it?

Mr. SWANSON. I think the bill merely authorizes the appropriation.

Mr. JONES of Washington. I think that would be the proper course.

Mr. REED of Missouri. Let the portion of the bill in reference to the appropriation be read.

Mr. SWANSON. If the bill does not authorize an appropriation, I think it should do so.

The VICE PRESIDENT. The Secretary will read the portion of the bill referred to.

The Chief Clerk read as follows:

SEC. 4. There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $3,000 in order to carry out the provisions of this act.

The VICE PRESIDENT. The question is, Shall the bill pass?

The bill was passed.

HEARINGS BEFORE COMMITTEES ON INDIAN AFFAIRS AND INTERSTATE COMMERCE

Mr. KEYES. From the Committee to Audit and Control the Contingent Expenses of the Senate I report back favorably without amendment two resolutions (S. Res. 90 and S. Res. 97) authorizing certain standing committees of the Senate to hold hearings. They are in the usual form, and I ask unanimous consent for their immediate consideration.

The resolution (S. Res. 90) submitted by Mr. HARRELD December 15, 1925, was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the Committee on Indian Affairs, or any subcommittee thereof, be, and hereby is, authorized during the Sixty-ninth Congress to send for persons, books, and papers, to administer oaths, and to employ a stenographer, at a cost not exceeding 25 cents per 100 words, to report such hearings as may be had in connection with any subject which may be before said committee, the expenses thereof to be paid out of the contingent fund of the Senate; and that the committee, or any subcommittee thereof, may sit during the sessions or recesses of the Senate.

The resolution (S. Res. 97) submitted by Mr. WATSON December 21, 1925, was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the Committee on Interstate Commerce, or any subcommittee thereof, be, and hereby is, authorized during the Sixty-ninth Congress to send for persons, books, and papers, to administer oaths, and to employ a stenographer, at a cost not exceeding 25 cents per 100 words, to report such hearings as may be had in connection with any subject which may be before said committee, the expenses thereof to be paid out of the contingent fund of the Senate; and that the committee, or any subcommittee thereof, may sit during the sessions or recesses of the Senate.

CLARA PISER LUDES AND OTHERS

Mr. KEYES. From the Committee to Audit and Control the Contingent Expenses of the Senate I report back favorably without amendment the resolutions (S. Res. 87 and S. Res. 96) authorizing certain payments to the families of former employees of the Senate, and I ask unanimous consent for their present consideration.

The resolution (S. Res. 87) submitted by Mr. CAPPER December 14, 1925, was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay from the contingent fund of the Senate to Clara Piser Ludes and Pauline Piser Merritt, sisters, and John Piser, brother, of Amy R. Piser, late assistant clerk to the Committee on the District of Columbia, six months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered as including funeral expenses and all other allowances.

HARRY T. VAN FLEET

The resolution (S. Res. 96) submitted by Mr. WILLIS December 21, 1925, was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay from the contingent fund of the Senate to Harry T. Van Fleet, son of John M. Van Fleet, late the supply clerk in the office of the Superintendent of the Senate Office Building, six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. HARRELD:

A bill (S. 2530) authorizing the use of the funds of any tribe of Indians for payments of insurance premiums for protection of the property of the tribe against fire, theft, tornado, and hail; to the Committee on Indian Affairs.

By Mr. NEELY:

A bill (S. 2531) granting a pension to Margaret J. Burbridge; to the Committee on Pensions.

A bill (S. 2532) providing for the erection of a Federal building at New Martinsville, W. Va.; to the Committee on Public Buildings and Grounds.

By Mr. BRATTON:

A bill (S. 2533) for the relief of R. P. Rueth, of Chamita, N. Mex.; to the Committee on Claims.

By Mr. COPELAND:

A bill (S. 2534) transferring Fort Niagara, in the State of New York, from the jurisdiction of the War Department to the jurisdiction of the Department of the Interior, etc.; to the Committee on Military Affairs.

By Mr. McKELLAR:

A bill (S. 2535) granting a pension to Lissie Young; to the Committee on Pensions.

By Mr. EDWARDS:

A bill (S. 2536) allowing claims for the recovery of taxes paid on distilled spirits in certain cases; to the Committee on Finance.

By Mr. CAPPER:

A bill (S. 2537) to provide for the condemnation of land for the opening, extension, widening, or straightening of streets, avenues, roads, or highways, in accordance with the plan of the permanent system of highways for the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

A bill (S. 2538) granting an increase of pension to Julia A. Huston (with accompanying papers); to the Committee on Pensions.

By Mr. GOFF:
A bill (S. 2539) granting a pension to Florida J. Jack; to the Committee on Pensions.
By Mr. METCALF:
A bill (S. 2540) granting an increase of pension to George H. Naylor; to the Committee on Pensions.
By Mr. FRAZIER:
A bill (S. 2541) to create a Federal agricultural marketing board, to prescribe its duties and define its powers, and for other purposes; to the Committee on Agriculture and Forestry.
By Mr. WILLIS:
A bill (S. 2542) granting an increase of pension to Alice B. Barnard (with accompanying papers); and
A bill (S. 2543) granting an increase of pension to Hannah Hardsock (with accompanying papers); to the Committee on Pensions.
By Mr. ERNST:
A bill (S. 2544) for the relief of Henry C. Davidson; to the Committee on Naval Affairs.
A bill (S. 2545) amending the Statutes of the United States as to procedure in the Patent Office and in the courts with regard to the granting of letters patent for inventions and with regard to interfering patents;
A bill (S. 2546) amending section 52 of the Judicial Code; and
A bill (S. 2547) to protect trade-marks used in commerce, to authorize the registration of such trade-marks, and for other purposes; to the Committee on Patents.
By Mr. BINGHAM:
A bill (S. 2548) to enable the Postmaster General to make contracts for the transmission of mail by aircraft at fixed rates per pound; to the Committee on Post Offices and Post Roads.
By Mr. McNARY:
A bill (S. 2549) granting pensions to certain scouts who served in the Nez Perce War of 1877; to the Committee on Pensions.
By Mr. JONES of Washington:
A bill (S. 2550) for the relief of Berton F. Bronson; to the Committee on Military Affairs.
By Mr. CURTIS:
A bill (S. 2551) for the relief of Stanton & Jones; to the Committee on Claims.
A bill (S. 2552) to authorize the Commissioner of the General Land Office to dispose by sale of certain public land in the State of Kansas (with accompanying papers); to the Committee on Public Lands and Surveys.
A bill (S. 2553) for the relief of Hiram B. Hatt; to the Committee on Military Affairs.
A bill (S. 2554) granting a pension to James Hickson (with accompanying papers);
A bill (S. 2555) granting an increase of pension to Mary E. Highley (with accompanying papers);
A bill (S. 2556) granting a pension to Samuel D. Jarman (with accompanying papers);
A bill (S. 2557) granting an increase of pension to Harriett Lemmons (with accompanying papers);
A bill (S. 2558) granting a pension to Mary J. Miller (with accompanying papers);
A bill (S. 2559) granting an increase of pension to Margaret Mathews (with accompanying papers);
A bill (S. 2560) granting an increase of pension to Eliza C. Munsey (with accompanying papers);
A bill (S. 2561) granting a pension to Pinckney H. McCord (with accompanying papers);
A bill (S. 2562) granting an increase of pension to Minerva A. Humbert (with accompanying papers);
A bill (S. 2563) granting an increase of pension to Warren E. Harvey (with accompanying papers);
A bill (S. 2564) granting an increase of pension to Anna Harper (with accompanying papers);
A bill (S. 2565) granting an increase of pension to Samuel F. Hoover (with accompanying papers);
A bill (S. 2566) granting an increase of pension to Thomas Haxton (with accompanying papers);
A bill (S. 2567) granting an increase of pension to Anna E. Glassford (with accompanying papers);
A bill (S. 2568) granting an increase of pension to Lydia S. Gibson (with accompanying papers);
A bill (S. 2569) granting an increase of pension to Frances W. Cochran (with accompanying papers);
A bill (S. 2570) granting an increase of pension to Eliza S. Bowen (with accompanying papers);
A bill (S. 2571) granting a pension to Elizabeth D. Burton (with accompanying papers);
A bill (S. 2572) granting a pension to James Anderson (with accompanying papers);
A bill (S. 2573) granting an increase of pension to Katherine Norman (with accompanying papers);
A bill (S. 2574) granting an increase of pension to John E. Pickard (with accompanying papers);
A bill (S. 2575) granting an increase of pension to Phebe L. Pitzer (with accompanying papers);
A bill (S. 2576) granting an increase of pension to Francis M. Rogers (with accompanying papers);
A bill (S. 2577) granting an increase of pension to Lorinda C. Rand (with accompanying papers);
A bill (S. 2578) granting an increase of pension to Kate Settles (with accompanying papers);
A bill (S. 2579) granting an increase of pension to Ida M. Smith (with accompanying papers);
A bill (S. 2580) granting a pension to Eliza Thompson (with accompanying papers);
A bill (S. 2581) granting an increase of pension to John Siddle Thompson (with accompanying papers);
A bill (S. 2582) granting an increase of pension to Mary E. Tolbert (with accompanying papers); and
A bill (S. 2583) granting an increase of pension to Harriet A. Williams (with accompanying papers); to the Committee on Pensions.
By Mr. STANFIELD:
A bill (S. 2584) to promote the development, protection, and utilization of grazing facilities on public lands, to stabilize the range stockraising industry, and for other purposes; to the Committee on Public Lands and Surveys.

AMENDMENT TO INTERIOR DEPARTMENT APPROPRIATION BILL

Mr. CAMERON submitted an amendment intended to be proposed by him to House bill 6707, the Interior Department appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed, as follows:

On page 27, strike out lines 13 to 23, inclusive, and insert in lieu thereof the following:
"For continuing construction of the Coolidge Dam across the canyon of the Gila River near San Carlos, Ariz., as authorized by the act of June 7, 1924 (43 Stat. L. pp. 475, 476), $450,000, to be immediately available, reimbursable as printed in said act: *Provided*, That said sum, or so much thereof as may be required, shall be available for purchase and acquiring of land and necessary rights of way needed in connection with the construction of the project."

CHANGES OF REFERENCE

Mr. HALE. Mr. President, I send to the desk the bill (S. 2152) for the relief of Lawrence Harvey, which was erroneously referred to the Committee on Naval Affairs. I ask that the Committee on Naval Affairs be discharged from the further consideration of the bill and that it be referred to the Committee on Claims.
The VICE PRESIDENT. Without objection, it is so ordered.
Mr. MOSES. On December 8 I introduced a joint resolution (S. J. Res. 2) for the relief of George Horton. Through my own inadvertence the joint resolution was referred to the Committee on Foreign Relations. It should properly go to the Committee on Claims, and I ask unanimous consent that that change of reference may be made.
The VICE PRESIDENT. Without objection, the Committee on Foreign Relations will be discharged from the further consideration of the joint resolution, and it will be referred to the Committee on Claims.
Mr. MOSES. On behalf of the senior Senator from Illinois [Mr. McKINLEY], I ask also that a change of reference be made of the bill (S. 2215) for the relief of James E. Simpson, which was introduced by that Senator on January 5 and referred to the Committee on Post Offices and Post Roads. I ask that the bill be referred to the Committee on Claims.
The VICE PRESIDENT. Without objection, the Committee on Post Offices and Post Roads will be discharged from the further consideration of the bill, and it will be referred to the Committee on Claims.

HOUSE BILL REFERRED

The bill (H. R. 6773) to authorize the settlement of the indebtedness of the Kingdom of Italy to the United States of America was read twice by its title and referred to the Committee on Finance.

AGREEMENTS INCIDENT TO RECOGNITION OF MEXICAN GOVERNMENT

Mr. LA FOLLETTE. I submit a Senate resolution which I send to the desk and ask that it may be read. I shall then ask unanimous consent for its immediate consideration.
The VICE PRESIDENT. The Secretary will read the resolution.

The resolution (S. Res. 116) was read, as follows:

Resolved, That the Secretary of State is hereby requested, if not incompatible with the public interest, to furnish the Senate with copies of all agreements and understandings with Mexico which were precedent to or conditions of the recognition of the present Mexican Government by the Government of the United States, concerning any and all articles of the Mexican constitution and any and all legislation enacted or to be enacted by the Mexican Government pursuant to the provisions of its constitution, and in particular copies of any agreements or understandings regarding exploitation of petroleum deposits and other natural resources or the refunding of the Mexican foreign public debt of which the Department of State has ever been made cognizant by individuals or companies of United States citizenship and all papers submitted by United States Commissioners John Barton Payne and Charles Beecher Warren, whose conference in Mexico City in the summer of 1923 preceded recognition.

Mr. CURTIS. I ask that the resolution go over under the rule.

The VICE PRESIDENT. The resolution will lie over under the rule.

OPERATION OF FOREIGN SHIPPING BY AMERICAN CITIZENS

Mr. CAMERON submitted the following resolution (S. Res. 117), which was referred to the Committee on Commerce:

Whereas it has been brought to the attention of the Senate and the House of Representatives of the United States of America that certain citizens of the United States, formerly operators of tonnage owned by the United States of America, having been allocated this tonnage for the period of approximately five years and having established valuable connections abroad and built up a business from which considerable revenue could be acquired, have recently severed their connection as managing operators for tonnage owned by the United States of America and become affiliated with foreign owners operating foreign-flag tonnage in direct competition with American-flag tonnage in the trade route formerly operated by them in behalf of the United States Shipping Board and United States Shipping Board Emergency Fleet Corporation; and

Whereas it has been brought to our attention that certain other operators of tonnage owned by the United States of America and operated in behalf of the United States Shipping Board Emergency Fleet Corporation in addition to their responsibilities as managing operators for United States tonnage, also represent foreign owners and act as agents or operators for foreign-flag tonnage to the detriment of American-flag tonnage: Now therefore be it

Resolved, That the aforesaid operators who have recently affiliated themselves with owners and operators of foreign tonnage and also any other operators or agents now managing American-flag tonnage in behalf of the United States Shipping Board who are also acting in the capacity of managers or agents for foreign-flag tonnage, competing with tonnage owned by the United States of America, be stricken from the list of active operators of any tonnage owned by the United States of America and operated in behalf of the United States Shipping Board Emergency Fleet Corporation.

THE WORLD COURT

Mr. BROOKHART. Mr. President, I send to the desk two papers in reference to a form of World Court and ask that they may be printed in the RECORD.

The VICE PRESIDENT. Without objection, it is so ordered. The papers are as follows:

A REAL WORLD COURT

(George Joerns)

The antidote for alkali poisoning is an acid. The antidote for acid poisoning is an alkali. Blind, unreasoning adherence to any kind of a World Court, however lofty the motive, negates common-sense effort to lessen or abolish the probability of future wars.

What causes war and the vehicle that sets war in motion are two entirely different propositions. Preventative and curative medicine or surgery are different propositions. The difference is acknowledgment that cause continues to exist.

The vehicle that sets war in motion is political. There is none other. The nomenclature matters not; be it a kaiser or a congress; a parliament or a regency. A sustained world peace follows only if and when that vehicle is well harnessed. The League of Nations is such vehicle. Is the present Permanent Court of International Justice adequate harness? Can it ever be adequate? Can transient reservations of one or more sovereignties ever cure any organic inadequacy? Will oil and water mix?

Senate Document No. 9, Sixty-eighth Congress, first session, The League of Nations, its Court, and its Law, by David Jayne Hill, eminent authority on international law, is illuminating. Quoting therefrom with relevant continuity emphasizes the ultimate tendency of interpreted league law becoming the main body of all international law, the vital interests of nonleague members to the contrary notwithstanding. Result, the ultimate transfiguration of our dear old Uncle Sam into a judicial eunuch. And condescendingly they made him court crier. (The Year 2000, or Looking Backward.)

Mr. Hill states:

"Whether the United States ever becomes a member of the league or not, acceptance of the Permanent Court of International Justice established by the league will unquestionably go far to solidify and perpetuate the system which the league represents. This, I think, is incontestable. At least, it is the hope and expectation of those who most consistently support the league. Lord Robert Cecil, since returning from his mission in the United States, has not only expressed with confidence his belief that the league is destined to be the sole international authority in the world—and this includes America as well as Europe, Asia, and Africa—but that the United States will be forced to enter the league if it wishes to exercise any international influence. Lord Robert's words are:

"'In any case, I am convinced that the league is bound to go on and is bound to grow in strength. In the process of time it will, therefore, inevitably absorb all the more important international questions. It will become the sole international authority in Europe and the world. All countries desiring to take part in international affairs will have to use the league machinery for that purpose, for there will be no other of importance.'

"The central question at this time, therefore, should be, What, from the nature of its origin, authority, and dependence, is the relation of the Permanent Court of International Justice to the league and to the league's fundamental law, the covenant? It will be here maintained that the league's court will be the expounder and defender of the league's organic law above all the other so-called law international, whether customary or written, and that as the Supreme Court of the United States is bound by the Constitution, the source of its own authority, so the Permanent Court of International Justice is bound by the covenant whose provisions and will of its adherents are the only sources of this court's authority. What is even more important for the United States to consider is that formal adhesion to the court honorably involves loyal acceptance and support of its opinions and decisions."

Referring to Mr. Root's just criticism of the first draft of article 14 of the league covenant, authorizing the establishment of a permanent court of international justice, Mr. Hill states:

"This frank and just criticism no doubt stimulated the framers of the covenant to new efforts in order to satisfy the critics, and it resulted in a new formulation of article 14. So slight, however, was the change in the text of the article, and so little has since been done to meet Mr. Root's criticism, that there is still no redress provided for a state that is wronged, unless the state that has committed the wrong agrees to appeal to the court. The criticism is to-day (August, 1923) as valid as when it was written."

Mr. Hill goes on to state:

"The jurisdiction of the court over cases where a state has been wronged by another, upon the complaint of the injured state, was set aside, and the statutes adopted by the league offer no remedy whatever for the injury of a weak state by a strong one or for the annoyance of a strong state by a weak one. As for the recommendations regarding international law, no action has been taken or even promised. I therefore have no hesitation in repeating here words used by me in 1919:

"'The attitude of this covenant, even in its revised form, toward international law is indeed surprising. It nowhere makes reference to it except briefly in the preamble, and it does not even there commit itself to the support of it or the improvement of it. It speaks of "understandings of international law," but it does not admit the authority of international law as an accepted corpus juris to which civilized nations have already agreed. It does not state whose "understandings" are to be applied, and it does not inform us where or how any "understandings" are to be obtained. It leaves the subject with ground for inference that they are to be discovered, if at all, only in its own decisions.'

"The really serious aspect of these omissions should not escape our attention. If the members of the league are not willing—and only 14 of them have expressed their willingness—to submit to the court all really justiciable cases, it is illusory to pretend that this court can contribute in any manner to the peace of the world. If the nations refuse to submit strictly legal questions to judicial decision, it means they either have the intention of being deliberately and incorrigibly arbitrary in their conduct or that they so distrust the court that they do not expect justice from it. Unless the court is dishonorable, the failure of justice would lie in the inadequacy of the law. The remedy for this is the perfecting of the law, but this recommendation of the committee of jurists the league has rejected. What the league desires is not the clarification of international law by a process of codification and commitment to fixed rules. It prefers that its court shall develop international law by its decrees. What then is to govern its decisions? At this point it is necessary to inquire whence the court derives its authority.

"The immediate source of authority is the protocol which the United States is expected to sign and ratify. This protocol is a treaty and has the form and authority of a treaty. It binds all those states whose governments sign and ratify it to obedience to the statute of the court and conformity to its decisions, whatever these may be. If it were not so the protocol would have no value and meaning.

"If it were asked, By what authority do the members of the Supreme Court of the United States sit here and render decisions binding on the Nation? the answer would be: They do this by the authority of the Constitution of the United States. This would, of course, imply that they do it because the Constitution was adopted by the separate States.

"In like manner the answer to the question, By what authority do the judges of the Permanent Court of Justice sit at The Hague and render decisions affecting the destiny of nations. The true answer would be, They do it by the authority of the covenant of the League of Nations; and it would be perversion of the truth to say that they do it because they were constituted a court by the separate action of a certain number of sovereign states. These states have acted only as members of the league, and in the strictest sense the court is the league's court. The court's primary charter of existence is the covenant which provides for its creation. The statute of the court is an act of legislation by the league, and the authority for that legislation is the covenant which authorized it.

"It has been correctly said that this court is the 'private court' of the league. If instead of 52 members the league as a 'military alliance' consisted of three or four members, no one would question this. But the great number of its adherents, so long as it is limited, does not alter its character. It only renders it the more formidable as a dominating international influence."

Mr. Hill states an interesting possible contingency in the case of China:

"China is a vast country, frequently in a state of commotion, with a weak government, and has been and is the victim of encroachments and pretensions by other powers which most independent nations would not endure. China is also a member of the League of Nations, and before resorting in any way to violence is under obligation to arbitrate every controversy under the articles of the covenant, but has no recourse to the Permanent Court of International Justice for a remedy for any form of imposition without the consent of the powers with which she may have disagreement and from which she may suffer wrong. Being without remedy, would it be strange, would it even be culpable, if some military leader, acting in the name of the state, should oppose encroachment and thereby commit an act which would be held in violation of the covenant? If this should happen, the covenant would require, and the league's court would affirm, that all commercial, financial, and personal relations between China and all other states should be completely cut off and prohibited.

"The United States, not being a member of the league, would have no voice in this matter. The league being above the law and not answerable for its actions, and all the great powers having declined to accept the compulsory jurisdiction of the court, no case could be brought before it by the United States; but all the same, in its advisory capacity, the court would declare the perfect legality of this act of excluding all trade and all financial or personal relations and intercourse with China and virtually the whole western Pacific by the nationals of the United States. If the United States had, through its membership in the court, committed itself to the acceptance of the court's decisions it would find itself honorably as well as legally barred from protest against being thus excluded and its trade destroyed, regardless of the motives that had prevailed in producing the situation.

"If, on the other hand, the court were really a world court, not bound by the provisions of the covenant, it would consider the obligations of the league as not in any way permitting it to determine the rights of the United States by its action as a military alliance; and if the league were really at war with China, the laws of neutrality being in operation, the cost of effective blockade would be so great, as compared with blockade by legally accepted decree, that the blockade might never be undertaken."

In conclusion Mr. Hill states:

"In the presence of these facts it would be a disregard of the interests of the United States and the rights of its citizens to participate in this court by the payment and election of its judges and the recognition of the legality of its decisions so long as it remains the court of the league. The indispensable first step to membership is that the court be entirely detached from the League of Nations and made in the true sense a world court, in which all recognized sovereign states should have a share in the choice of judges and be judged under a common law.

If the league, which is admitted to be a "military alliance," declines to take this step, it can not well escape from the charge that the Permanent Court of International Justice is not only permanently a private court, as a part of the machinery of the league, but in some of its effects a court-martial in relation to states not members of the league.

Elihu Root and David Jayne Hill are two of our most distinguished and learned jurisconsults. The opinion of neither can be lightly swept aside. Their achievements are the labor of years. The ordinary, everyday individual hesitates to advance his own ideas in these circumstances. However, give pause and reflect on the verdict of seemingly inarticulate millions, who by a 7,000,000 majority emphasized their distrust of a political League of Nations. This distrust is not peculiar to our own nationals. It is world-wide.

Indiscriminate strictures lead us nowhere. There is hardly anyone who at one time or another is not the victim of circumstances. However, the immediate problem is to advance safe premise for the meeting of rational minds.

The writer here proposes a world court of sovereign states. Under a 1924 copyright, he has set forth a three-court world court. The present Permanent Court of International Justice becomes the Old World court, without undue interference with the League of Nations. A New World court is instituted in the Western Hemisphere. Capstone to these two lesser courts, a world court completely disassociated from the League of Nations is instituted. The whole matter has been condensed in pamphlet form. (Copy attached.)

This three-court plan requires the judges to be selected with regard to nationality. Not regardless of nationality. This plan brings the peoples of participating sovereignties closer to the instituted courts and therefore closer to each other. It makes the Monroe doctrine the common property of the Western Hemisphere. It obviates future congestion in each jurisdiction. It leaves the codification of international law to a body completely disassociated from the League of Nations. It provides that now lacking—an international court of appeal.

In the opinion of the writer, this attempted disassociation of a world court from the League of Nations will not bring in its train too heavy a diplomatic responsibility. The little nations on this hemisphere now adhering to the league and the league court know that in any future cosmic explosion they won't even be star dust, let alone meteors but briefly visible to the naked eye. The little nations of the Old World likewise realize that, barring some substitute for a political league of nations, they can temporarily safely abide in the shade of the league until one or more of the great nations of the league fall on each other's throats. At present, if two or more of the great nations, members of the League of Nations, went to war in spite of the spirit of Locarno, the little nations, like so many disturbed sparrows, might twitter until we quit writing notes. They might not even twitter that long. Under the three-court plan they would be rightfully favored with representation not now theirs.

MAKING DEMOCRACIES SAFE FOR THE WORLD—A THREE-COURT WORLD COURT

(George Joerns, lieutenant commander, United States Navy, retired)

SUMMARY

This plan emphasizes the necessity of a line of cleavage between the functions of the projected courts in dealing with international judicial questions and the functions of sovereign legislative and executive branches in dealing with international political questions. Japanese immigration is an international political question. The recently adjudicated Norwegian shipping claims was an international judicial question. Accumulating unadjudicated international judicial questions are menace.

Prior to the World War such safe line of cleavage was practically nonexistent. Except by resort to brute force there was no appeal from misdirected international political zeal. Our own early frontier settlements retrospectively furnish apt analogy. Before the advent of courts every man was law unto himself. Disputes of present everyday nature were settled with a six-shooter. The tide of civilization sweeping onward left established courts in its wake. Men gradually gave up going about armed. The processes of law replaced the direct action of physical might.

Nations are collections of individuals. They compositely reflect inherent human psychologies. Under pressure of immediate domestic needs they forced stabilizing judicial machinery upon their domestic political leadership. Steeped in immediate domestic concerns, they lacked the larger vision. Instituted domestic checks and safeguards naturally caused certain political energies to gravitate toward unguarded international outlets. Unharnessed international political leadership immediately had tendency to assimilate primitive frontier reactions.

The three-court plan affords the United States opportunity to cooperate with other nations to achieve and preserve the peace of the world. It is simple. It divides the world into two spheres—the Old World and the New World—each under the jurisdiction of a court. By superposition of a third, or world court, it gives states of different jurisdictions judicial access before a common tribunal. The Permanent Court of Arbitration at The Hague remains distinct and separate outlet. The Permanent Court of International Justice, by-product of the League of Nations, becomes the Old World court under this three-court plan.

The states of the Old and the New World, respectively, fill the panels of the courts of their respective jurisdictions. Australasia and ultimately the Philippines join all states in filling the panels of the World Court.

The Permanent Court of International Justice is general pattern and guide as to personnel, jurisdiction, and rules of procedure of each of the three courts. Additional suggestions by the writer are included.

Basic sovereign reservations are generally enunciated. The constitutional prerogatives of the United States Senate are emphasized.

Penalties to be imposed only by the senior or World Court are provided. Such penalties are imposed by sentence after due process of law, and then only two-thirds of the court concurring. These penalties consist of economic boycott or embargo over limited periods of time. They may embrace any or all commodities of commerce, excepting human or animal foodstuffs, exported by the offending state or states. Boycott of a penalized state is joined by all the other states signatory to protocol constituting the World Court.

To determine the feasibility of a proposition work out its reciprocal. If it works both ways, adopt it.

Organically healthy fermenting humanity constantly throws off the pus politicus. If temporarily unable to throw off this pus, the resultant is a prostrate Russia. Change of administration in our own America is exemplar of the working to the surface and expulsion of toxic political poisons. The League of Nations was political in conception. It is perforce political in execution. Hence its preordained failure. The League of Nations should be restricted to a great international information bureau on matters relating to education, economics, social service, and kindred subjects.

Successful building presupposes solid foundation of one or more major premises. The superstructure of a stable world court and its corollary, a sustained world peace, rests upon three fundamentals.

(a) For some tens of thousands of years the world has traveled upon its collective bellies. The millennium is not yet.

(b) Force pyramided upon force (militarism) is ultimate self-destruction.

(c) Representative democracy will evolve safe intervening stabilizer, or perish.

War is the economic eruption of too highly concentrated peace. Humanity has inherent two major psychologies. (1) Superintentness upon its immediate tasks, thus limited perspective. (2) The herd instinct which impels each to cling tenaciously to his own fireside. There have been more wars than revolutions. The population of Belgium is 700 to the square mile and of the United States, 20. Superimpose upon a dense population the stress of converging economic pressure and the leadership of politicians wholly intent upon retention of prestige, power, patronage; the fuse is lit. Political leadership no longer able to create issues, meaning, take from one constituent and give to another, often chooses the alternative—war. The eruption of blood and tears having temporarily ceased, there is realignment and counteralignment. To date this cycle has been endless.

The best practicable plan by which the United States may cooperate with other nations to achieve and preserve the peace of the world must in the first instance be a simple plan whose framework may be instantly visualized. The problem is unwieldy unless first broken up into its component spheres. Premature injection of working details clouds horizon. Details are always subject to change or reservation.

Briefly, it is proposed to set up an Old World court, a New World court and capstone thereto, a world court. Under this plan compulsory participation of the United States in European wars, if any such are in the future found unpreventable, does not follow. Neither is such participation implied.

The Old World court is already in being, namely, the Permanent Court of International Justice, by-product of the League of Nations. Its jurisdiction should be confined to the peoples and continents of Europe, Africa, and Asia, excluding Australasia and the Philippines. Its name should be altered to fix its jurisdiction. Old World signatories to the protocols establishing it and the Old World in general should alone prescribe its functions. Other signatories meanwhile should effect orderly withdrawal.

The New World court should be instituted by the nations and independent dominions of North and South America under the auspices of the Pan American Union. The Monroe doctrine then becomes emphasized common property of the Western Hemisphere.

The previous omission of Australasia is now noted. The exclusion of the Philippines was reservation, reservation conditioned upon ultimate Philippine independence. Pending such independence it is proposed to admit Astralasia to membership in the World Court with one judge. With the ultimate independence of the Philippines it is proposed to award to Australasia (Australia and New Zealand) a total of two judgeships and a third judgeship to the Philippines. These Pacific entities, Australasia and ultimately the Philippines, members of neither the Old World court nor the New World court are to be initially eligible as members of the World Court, Australia and New Zealand to meanwhile effect orderly withdrawal from the Permanent Court of International Justice.

The personnel of the World Court might then consist of a certain number of judges nominated by the Old World and a certain number nominated by the New World. Add thereto the one or three judges of the aforenamed Pacific entities and a constituted court of an odd-numbered membership evolves. Such odd-numbered membership would make the World Court a smoother agency in the development of international law. A natural function of a world court is the making, codification, and interpretation of international law. The formulation and agreement upon amendments and additions to international law in order to reconcile divergent views. The extension of international law to subjects not now adequately regulated, but as to which the interests of international justice require that rules of law shall be declared and accepted. Population, importance in the economic scale, and sane altruism should dictate not only the size of the World Court but also the size of the Old World court and the New World court subsidiaries thereto.

Picking the personnel of either of the three named courts is matter of evolvement by concerned sovereignties after due conference and agreement. "The Permanent Court of International Justice, now in operation at The Hague, was established by a protocol signed on the 16th of December, 1920, and ratified by substantially all the civilized nations, great and small, with the exception of the United States, Germany, Russia, and Mexico. The court is composed of 11 judges and 4 deputy judges, to act in case of illness or absence. They are all required to be 'independent judges, elected regardless of their nationality from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or who are jurisconsults of recognized competence in international law,' and it is required that they shall represent the main forms of civilization and the principal legal systems of the world. They are elected for terms of nine years and are eligible to reelection. They receive fixed salaries and are prohibited from exercising any political or administrative function while in office. The court elects its own president, appoints its own clerk, and makes its own rules. A session of the court is required to be held every year, and, unless otherwise provided by the rules of the court, the session begins on the 15th of June and continues until the calendar of cases is cleared. A quorum of nine judges is required for hearing and decision, except in certain special cases in which summary procedure is provided for. Before entering upon the discharge of his duties, each judge is required to make a solemn declaration in open court that he will exercise his powers impartially and conscientiously." (Root.)

The foregoing working pattern can be imitated so far as practicable in the ultimate constitution of a New World court and a world court. Suggested orderly withdrawal into their own spheres relieves Old World congestion in the matter of court memberships and clarifies zones of interest and jurisdiction. The writer is well aware that probably the Permanent Court of International Justice at The Hague is absolutely independent of and is subject to no control by the League of Nations or by any other political authority. That it completely excludes the essential characteristics of the league organization and procedure. However, popular concept is the reverse and prejudice will not be sufficiently allayed until sphere jurisdiction is emphasized by the three-court plan herewith submitted. Prevalent prejudice also lessens by inclusion of proviso that where an independent dominion of a federated empire or the mother unit itself of such federated empire is an immediate party at interest in litigation before the court, that all nationals of such federated empire temporarily abstain from sittings of the concerned court until the litigation in question is finished before that court. This proviso to apply likewise to all litigant states, be they plaintiff or defendant. If in the present state of world opinion this proviso be too drastic, then no power should have more than one of its nationals sitting on the court in such instances.

The personnel of the Permanent Court of International Justice (projected Old World court) is already qualified and functioning. A relieved membership congestion and possible increased representation thereon to Old World states has been indicated. The question of membership resolves itself into representation of the primary nations versus the representation of the secondary nations and independent dominions. China, Japan, Russia, Great Britain, Germany, France, Italy, and Spain might be listed as primary nations. Remaining Old World self-governing states and independent dominions may be listed as secondary nations. If each of the primary nations above named are accorded one judge, the secondary states would have to share in rotation the distinction of representation upon either the Old World court or the World Court.

Norway, Denmark, and Sweden could alternate. Alternation is accelerated if panel eligibles of secondary nations serve terms of five years. The term of a nominated national of a primary nation to be nine years. We must not handicap this three-court plan with a too cumbersome personnel. Therefore five or more entities, such as the Hedjaz, Liberia, Siam, Persia, and Egypt, might rotate their representation with three-year terms. Thus accelerating the judicial education of these political fledglings.

Under this three-court plan, at least as pertains to the New World court and the World Court, membership nominations should be for-

warded by the executive branch of a sovereignty to a sovereign confirming body. Failure to nominate or failure to confirm within specified time limits should automatically within quorum limitations invest the sitting membership of the concerned court with the requisite authority to fill such vacancy out of hand by a majority vote of the sitting panel after due selection of a national eligible as nominee. Judges of all three courts should be subject to recall by their own nationals. Recall to be initiated by a majority of the lower body of a legislative assembly and to be effective only by subsequent affirmative popular referendum.

The proceedings before these courts shall be public. Finding of fact may be accomplished in closed court. The findings, however, and the individual vote of each member shall be immediate public record. This applies likewise to sentence in the case of the World Court.

The personnel of the New World court naturally furnishes numerical pattern for New World membership upon the World Court. The numerical paucity of New World primary nations is, as regards World Court membership, slightly relieved by the advent of the already mentioned Pacific entities, Australasia, and ultimately the Philippines. Meanwhile New World panel, both as to New World court and as to World Court membership, is contributed by the primary New World states—Canada, the United States, Mexico, Brazil, Argentina, Chile, Peru, and Ecuador. The secondary states can share rotation membership as outlined for the Old World court. Thus the Dominican Republic, Haiti, and Cuba can rotate judgeships every three years. Bolivia, Colombia, and Venezuela likewise. Uruguay and Paraguay could rotate their judges once every five years. The Central American Republics of Panama, Costa Rica, Nicaragua, Salvador, Honduras, and Guatemala to share three-year rotation in two groups of three each. The nationals of a secondary nation in no instance to simultaneously occupy seats in both the World Court and in one of the other two courts of lesser jurisdiction.

The panel of the World Court is then initially made up of members from the 16 so-called primary nations. Eight from the Old World and eight from the New World. With the five groups of New World secondary states as a basis and the ultimate division of Old World secondary states into five groups by some standard of logical apportionment, 10 additional members are added to the World Court panel. This panel is now 26 members. Add thereto the 1 or ultimately 3 members to be contributed by the Pacific entities, and a total World Court membership of 27 or 29 results. This is large, but not necessarily too cumbersome. The total could be always reduced by the automatic temporary withdrawal of the nationals of litigants before the court.

Established, separate and distinct from the three-court plan just outlined, is the Permanent Court of Arbitration at The Hague. It should continue to function. Here parties in controversy, if they prefer, may have their differences settled by judges of their own choice appointed for the occasion. Or they may arbitrate differences of an international character not otherwise provided for, and, in the absence of an agreement to the contrary, to submit them to aforesaid Permanent Court of Arbitration at The Hague. This additional avenue of disposition of disputes of a justiciable nature should be kept open as safe alternative outlet. Signatories availing themselves thereof should be denied further cause for action in either of the three courts of primary jurisdiction, namely the Old World court, the New World court, and the World Court. The Pacific entities, Australasia and ultimately the Philippines, when themselves party to controversy, might in certain cases desire choice of access.

Sittings of each of the three courts should be periodically shifted regardless of other factors. This geographical rotation might occur once every three years in the case of the two courts of lesser jurisdiction (three-court plan) and once every five years in case of the World Court. Rotation should be in sequence of primary nation component geographical membership. The impress left by propinquity and contact is obvious.

Within their respective spheres the courts under the three-court plan are to be open to all states and only to states. The general jurisdiction of these courts to be "of three classes: First, all cases which the parties submit to it; second, all cases provided for in treaties and conventions; third, as to all states which shall have signed a special clause contained in the protocol accepting compulsory jurisdiction, all cases whatever between such states concerning (a) interpretation of a treaty; (b) any question of international law; (c) the existence of any fact which, if established, would constitute a breach of an international obligation; (d) the nature or extent of reparation to be made for the breach of an international obligation; (e) the interpretation of a judgment rendered by the court." (Root.) The courts to have such certain other special jurisdiction as may from time to time be assigned to them.

The courts to be "required to apply (1) international conventions, whether general or particular, establishing rules expressly recognized by the contesting States; (2) international custom as evidence of a general practice accepted as law; (3) the general principles of law recognized by civilized nations; (4) judicial decisions (without giving them binding force) and the teaching of the most highly qualified publicists of the various nations as subsidiary means for the determination of rules of law." (Root.)

The World Court to be the court of original jurisdiction where the involved sovereignties are of different jurisdictions. The World Court to be the court of last resort where one of the litigants before either of the courts of lesser jurisdiction (three-court plan) appeals. Sole ground for such appeal to be an alleged endangered peace of the world. The World Court shall in such case be the sole judge as to whether such cause for action within its jurisdiction has been established and shall not assume jurisdiction unless by a two-thirds vote such cause for action has been established.

Under the three-court plan, participating sovereignties may collectively or individually enunciate fundamental reservation as to what is not to be justiciable. Immigration; the exclusion of nonassimilable immigrants; the doctrine of the division of church and state; questions involving the tariff or other matters of immediate domestic concern are basic reservations over which there can be no future quibbling or an alleged cause for action.

The proof of the pudding will now be succinctly stated, namely, the solemn obligation of each signatory to the three-court plan to submission to defined jurisdiction where another signatory or signatories are the plaintiffs. Barring previous protocol accepting compulsory jurisdiction, such submission, however, to be mandatory only after affirmative majority vote by the proper legislative branch of the prospective defendant sovereignty. In case of the United States, the United States Senate. Filibusters, however, to be barred. This additional safeguard will tend to bridge the gap of inadequate treaty or convention.

More than 20 of the smaller states unable to bear the burden of competitive armament have signed protocol accepting compulsory jurisdiction of the Permanent Court of International Justice. Public opinion in the remaining states must be conceded much additional weight.

The foregoing is not Utopia. Practical expansion is possible. Nations have signed treaties binding themselves to wait one year before going to war. Yet one nation not signatory to such treaties can start a conflagration. Under this three-court plan, assume two nations in the Western Hemisphere in controversy. The new World Court instantly takes cognizance, either on its own initiative or by certification of a New World neutral that trouble is brewing. The parties to controversy are immediately enjoined from going to war for a period of one year. This not to the prejudice of subsequent process of law. Violation of this injunction by either transfers this case to the jurisdiction of the World Court regardless of the consent of either. Transfer of jurisdiction to be only by certificate of the court of lesser jurisdiction. Either or both parties at interest now become liable to penalty imposition. Not only is sphere jurisdiction emphasized but conflagration is smothered in its incipiency.

PENALTIES

Advancing the proposition of economic boycott seems paradoxical in the submitted premises. However, bear in mind the useful analogy of a domestic judiciary. Due process of law continues as buffer between inherent right and popular clamor seeking outlet through legislative political channels. The facilities of judicial contact between nations, hitherto conspicuous by their absence, are established. The parties to controversy have further time to visualize consequences and reflexes. Stiff-necked ministries will lend more attentive ear to submerged constituencies. A saner public opinion will be the more immediately aroused. Weighted by judicial counterweight the international politician ceases to be world menace. His hitherto docile constituencies will cultivate lesser tendency to international fratricide. Gap between performance and promise lessens. Humanity draws closer instead of chasing political zephyrs in ever-widening circles. Judicial propinquity and contact lessen gap between rampant idealism and human rapacity. Political propinquity and contact has tendency to keep this gap fixed or widening.

Imposition of economic boycott or embargo should be denied the courts of lesser jurisdiction. It should be solely the prerogative of the World Court. The two lesser courts, particularly the Old World court, would very quickly create economic constipation if exercising such prerogative. Human greed and rapacity is intensified by Old World density of population. Tendency to create economic barriers should be minimized.

The covenant of the League of Nations contains a sweeping penalties clause. Strange mixture, political and economic, aggravates rather than ameliorates the possibility of war. A rat will fight. The genus politicus (a condition, not necessarily an individual) remains in position to touch the button setting in motion military force. Net result, continuing expensive military and naval overhead and racial bitterness.

Economic boycott or embargo should be limited to articles of commerce exported by an offending state. Foodstuffs, human and animal, should be excluded from the proscribed list. Revolutions are caused by dearth of bread; wars by excess of luxuries. He who does not sell can not buy. Precisely. Imposed penalties should be indeterminate or extend over limited periods of time—1 year, 18 months, etc.

At any time, at the option of the court, penalties may be remitted, decreased, or increased. However, each penalty imposition or action by the court to be by concurrence of two-thirds of the previously defined quorum. Finding of fact and all other judicial processes of the court to be by a majority concurrence of the previously defined quorum.

Listing of the articles of commerce aforesaid is a matter of detail it is not proposed to enter into here. Suffice to state that if an offending state is a heavy exporter of cosmetics, wines, etc., and having been duly adjudicated against in the World Court, remains recalcitrant, such state will immediately commence to feel the internal political and economic reflexes coincident therewith. Even the threat of internal economic derangement, temporary or permanent, is deterrent. The attendant possible untoward economic reflexes of the other state or states actual or prospective parties to controversy before the World Court will tend to cause such states to proceed with caution; or even having won their respective cases, themselves subsequently voluntarily ask not withdrawal of judgment but mitigation or remission of sentence.

It is useless to deny that the United States, with its great annual volume of imports, would not make its share of imposed penalty bear heavily upon an offending state. The world would be the more likely spared the asinine spectacle of an impasse pointing the irreparable economic ruin of Europe or other area. Created quick facility of adjustment solves such situations. Absence of such facility compels the world to look on in childish helplessness.

Backed by an aroused public opinion, such imposition would be effective until sentence had expired. The greatest buyer of all nations, the United States, leader of enlightened public opinion, sufficient in its own great natural resources, could by adherence to promulgated sentence quickly advance the cause of reason, not military force. British continental prestige is restored. The safety of France is assured.

Let us admit that if Greenland and Iceland were at each other's throats that this plan would be signal success. Contrariwise, if Patagonia glowers at Terra del Fuego across the Straits of Magellan, the plan becomes dismal failure. Since when does the exception prove the rule?

A start has to be made somewhere, sometime. The simplest of beginnings is a step forward. Another deluge of blood will scarcely leave fit material from which to fashion any kind of a beginning. A beginning, even predicated largely upon reservations, would be advancement. Aroused, informed, and through the decades an incrementally enlightened international public opinion will ultimately nullify all but conceded basic reservations. Sane progressive disarmament will be accelerated. Modern communication is drawing the world closer together day by day. Established haven of safe, judicial appeal alone is wanting.

"It can't be done," but here it is.

THE COAL SITUATION

The VICE PRESIDENT. If there be no further concurrent or other resolutions, the Chair lays before the Senate a resolution coming over from the preceding day, which will be read.

The Chief Clerk read the resolution (S. Res. 115) submitted yesterday by Mr. Copeland, as follows:

Whereas anthracite coal mining has been at a standstill for months and in consequence the bins of dealers and consumers are empty; and

Whereas the conference between the coal operators and miners has ended in failure; and

Whereas there is imminent danger to the public health and welfare because of the lack of an essential fuel, for which substitutes are unsatisfactory and unduly expensive: Therefore be it

Resolved, That the President of the United States be, and he is hereby, requested to take whatever steps are necessary and proper to bring about an immediate resumption of anthracite coal mining.

Mr. COPELAND. Mr. President, I move that the resolution just read be placed upon its immediate passage.

The VICE PRESIDENT. The question is, Shall the resolution be agreed to?

Mr. ODDIE. It seems to me, Mr. President, that as matters now stand it would be well to postpone action on the resolution because the Committee on Mines and Mining has before it and is considering a bill which is very broad in its scope and covers the operation of the anthracite as well as the bituminous industries of the country.

Mr. KING. Mr. President, will the Senator allow me to interrupt him?

Mr. ODDIE. Certainly.

Mr. KING. Do I understand that the Committee on Mines and Mining has before it a bill which contemplates that the Federal Government shall take over the bituminous mines and the anthracite mines and all other mines and operate them? If so, does the bill provide for the method by which this shall be done? Shall it be by seizure under a military force; by condemnation; or what method does the Senator indicate will be recommended by the committee by which the Federal Government shall engage in private enterprise and take over the mining industry of the country?

Mr. ODDIE. Mr. President, the legislation to which I have referred does not cover the field which the Senator from Utah has just suggested. It is very broad in its scope, but it does not provide for Government operation of the mines. I consider the bill conservative in form. I am opposed to any more Government interference or operation in industry than is absolutely necessary. I consider the bill now pending before the Committee on Mines and Mining conservative in tone and in substance; but I do not feel that the time has come for action on that bill as yet, because it has been referred to the Department of Commerce, from which source I believe advice should come in regard to the proposed legislation.

Mr. COPELAND. Mr. President, I am very much interested in what the Senator from Nevada has said and am encouraged to think that some committee of Congress is moving forward in a matter which is of vital importance to every citizen of this country.

Mr. NORRIS. Mr. President——

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Nebraska?

Mr. COPELAND. I yield to the Senator from Nebraska.

Mr. NORRIS. I notice the Senator's resolution is simply a Senate resolution. It does not provide for any method, and, of course, as a matter of law a Senate resolution can not do anything of that kind. The resolution is merely a request to the President to do whatever he can. I understand, however, the President has already stated that, in his judgment, there is not anything that he can do. So where will we get even if we should adopt the resolution?

I should like to state further, if I may, while the Senator has kindly permitted me to interrupt him, that I gave notice two or three days ago of my intention to address the Senate on the subject of the Tariff Commission. I have been prevented from doing that for three days now, because the Senate has not adjourned in the evening but has taken recesses. I expected to make that address immediately after the routine morning business this morning. I ask the Senator if he has any idea how long his resolution will take? It is part of the routine morning business, but perhaps it will take all the time of the morning hour.

Mr. CURTIS. Mr. President, a parliamentary inquiry. I ask the Presiding Officer if the motion, having been made before 1 o'clock, is debatable?

Mr. JONES of Washington. Mr. President, I make the point of order under Rule VII, section 3, that the motion is not in order at this time. That section of the rule reads:

Until the morning business shall have been concluded, and so announced from the Chair, or until the hour of 1 o'clock has arrived, no motion to proceed to the consideration of any bill, resolution, or report of a committee, or other subject upon the calendar shall be entertained by the Presiding Officer, unless by unanimous consent.

The VICE PRESIDENT. The resolution is before the Senate as coming over from the preceding day.

Mr. JONES of Washington. But I am making the point of order against the motion of the Senator from New York that it is not in order regularly under the rules. The rule says that no motion to proceed to the consideration of a resolution shall be entertained before 1 o'clock.

The VICE PRESIDENT. The question is upon agreeing to the resolution, which is in order.

Mr. JONES of Washington. It may be that the motion made by the Senator from New York is not necessary; perhaps the resolution can be proceeded with without such a motion.

The VICE PRESIDENT. The motion is not necessary. The motion that is in order is a motion to agree to the resolution.

Mr. JONES of Washington. I am merely making the point of order against the motion of the Senator from New York.

The VICE PRESIDENT. The point of order is well taken. If, however, the Senator from New York makes a motion to agree to the resolution, it will be in order.

Mr. COPELAND. I make that motion to agree to the resolution, Mr. President.

The VICE PRESIDENT. The question is on agreeing to the resolution.

Mr. COPELAND. Is that debatable?

The VICE PRESIDENT. It is debatable.

Mr. PEPPER. Mr. President——

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Pennsylvania?

Mr. COPELAND. I yield.

Mr. PEPPER. I should like to ask the Senator if he will yield to me in order that I may make a motion to refer the pending resolution to the Committee on Commerce.

Mr. COPELAND. No.

Mr. PEPPER. I do not want to take advantage of the Senator's yielding to make that motion if it is objectionable to him.

Mr. COPELAND. I do not yield for that purpose at this moment.

Mr. PEPPER. I will defer my motion, then, until I can get the floor.

Mr. BORAH. Mr. President——

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Idaho?

Mr. COPELAND. I yield to the Senator from Idaho.

Mr. BORAH. I simply want to understand clearly the status of the matter. As I understand, this is a resolution coming over from a preceding day?

The VICE PRESIDENT. It is a resolution coming over from the preceding day.

Mr. BORAH. Is the debate upon it limited to five minutes?

The VICE PRESIDENT. It is up to 2 o'clock.

Mr. BORAH. Very well.

Mr. COPELAND. Mr. President, I am very sorry, indeed, to witness this evidence of a desire on the part of some Senators to delay action on a resolution so simple as this, a resolution requesting the President of the United States to take whatever steps are necessary and proper to bring about an immediate resumption of anthracite coal mining.

Mr. President, I read this morning in the Washington Post that President Coolidge has "not much influence with the administration." I can quite understand why the President would say, as he did, or as it was intimated yesterday was the feeling of the White House, that the administration is powerless to help the situation until Congress enacts legislation empowering him to act in industrial disputes.

I do not blame the President for not wanting to take any action in this matter until he knows what the sentiment of Congress is. There is nobody in the United States who knows what the United States Senate thinks about the coal situation. There is nobody in this country who knows whether or not Congress has any desire to relieve the intolerable coal situation. The purpose of this resolution, if it is passed, is to let the President know that the Senate takes a sympathetic interest in this problem.

I can not speak for any other Senator, but my mail is filled with letters from persons in my State complaining about the present situation. One of two things is true in every community in my State. Either there is no anthracite coal at all to be had and dependence must be placed on unsuitable substitutes or else the price of anthracite is so high that the common man can not buy it.

A man came to my office this morning, a resident of my State, and said that in his town coal is selling at $33 per ton. I do not care how much anthracite coal there is in that town; so long as it is selling at $33 per ton the average citizen can not buy it.

Why should the Senate hesitate for a moment in the passage of a resolution which merely suggests to the President our sympathetic interest and requests him to take such action as may be proper and necessary?

Do you know what it means to delay this matter? It means that everybody who has any coal on hand has a chance to sell it at an exorbitant price, and it means further that coal-dust and slate and all sorts of improper fuels are foisted upon the public because they have nothing else to burn.

I assume, Mr. President, that it has been decreed that this resolution is not to be acted upon to-day, that it must be referred. I want to say to every Senator who votes against the passage of this resolution that the people in the North who burn anthracite coal will think it is a very cruel thing that there should be a delay, and they will be asking why it is.

So, Mr. President, without delaying the Senate further, I appeal to every Senator here to take this simple action, in order that the President may be encouraged to take whatever steps he may consider proper to take under the circumstances. At the present moment he does not know what is the attitude of Congress. He does not know what is the attitude of the Senate. In the name of tens of thousands of families in my city and in my State who go out every day with a bucket to buy a little coal and who are charged exorbitant prices for anthracite if they can get it—but who in most instances are forced to take substitutes—I beg of you to take this step to indicate to the President the desire of the Senate that some effective action be taken to relieve the situation.

Mr. PEPPER. Mr. President, the anthracite coal regions lie for the most part within the limits of the State of Pennsylvania. The Senate may be well assured that the failure of the Senators from Pennsylvania to make a proposal for legislative action in the matter of the strike has not been due to any indifference upon our part to the terrible conditions that obtain in the mining regions of Pennsylvania; it has not been due in the least degree to indifference to the public disturbance, the industrial unrest, the enormous loss to the mine workers themselves, and the interruption of production by the operators. If we have failed to bring forward a legislative proposal here, Mr. President, it is merely because we have not been able to formulate a measure which has seemed to us helpful in the present situation or one likely to relieve the conditions of suffering in those distressed parts of the Commonwealth of Pennsylvania of which I am particularly thinking at the moment.

This resolution, Mr. President, is not a resolution which tends in the least degree to relieve the situation but rather to aggravate it. The Senator who proposes it speaks of some of us as if we were banded together to obstruct a settlement of the strike. Quite the reverse is the case. The Senator has described his resolution as a simple proposal. Perhaps I shall not dissent from that if I am at liberty to put my own interpretation upon the language used.

This is a Senate resolution which, if it has any justification, is justified as advice to the President. In order that advice may be useful it must be definite and specific. In its present form it merely puts into legislative language a thought something like this: "We call upon the President of the United States to think of something to do which the Senate itself has been unable to think of." That is not a dignified or intelligent resolution for us to pass.

Mr. COPELAND. Mr. President——

Mr. PEPPER. If the desire of the Senator is to give the President something more than advice, to give him authority, then, of course, a Senate resolution is not the right vehicle through which to communicate the authority of Congress to act. Either this resolution ought not to have been introduced or it ought to have gone much farther than it has gone. As it stands, I repeat, it is merely a kind of a legislative sob. It expresses the hope that the President will have some idea on this subject which the Senate has been unable to conceive or to formulate.

Mr. COPELAND. Mr. President——

Mr. PEPPER. I will yield to the Senator in a moment.

I do not think that a resolution in this form is one which the Senate can properly pass; but, Mr. President, I do not want to be in the position of objecting to the passage of a resolution that is definite, constructive, and practical. Therefore I am going to move the reference of this resolution to the Committee on Commerce, to the end not that we may have delay but that if the committee, with the valuable aid that the Senator from New York can afford it, is able to formulate some suggestion worthy of being transmitted to the President, then we may act upon that suggestion and transmit it; but I submit that in its present form the resolution certainly ought not to pass.

I, therefore, Mr. President, move the reference of this resolution to the Committee on Commerce.

Mr. ROBINSON of Arkansas. Mr. President, may I ask the Senator from Pennsylvania why he thinks the Commerce Committee should have jurisdiction of the resolution?

Mr. PEPPER. I specified the Committee on Commerce not with great thought or deliberation but merely because, this being an industrial question, it occurred to me that that was the proper committee. I shall be entirely willing to have it referred to the Committee on Education and Labor or any other committee that Senators might agree upon.

Mr. REED of Missouri obtained the floor.

Mr. CURTIS. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Kansas?

Mr. REED of Missouri. I do.

Mr. CURTIS. I should like to ask the Senator from Pennsylvania [Mr. PEPPER] a question. Why not amend the motion so as to refer the resolution to the Committee on Education and Labor, as the chairman of that committee says that it is now considering this question?

Mr. PEPPER. I am very glad to accept the suggestion, Mr. President, and will amend my motion so that it will read a motion of reference of the pending resolution to the Committee on Education and Labor.

Mr. BINGHAM. Mr. President——

The VICE PRESIDENT. The Senator from Missouri has the floor. Does the Senator from Missouri yield to the Senator from Connecticut?

Mr. REED of Missouri. Does the Senator desire to ask a question?

Mr. BINGHAM. I desire to ask a question. Did I correctly understand the Senator from Kansas to say that the Committee on Education and Labor is now considering the question? My impression is that the Committee on Mines and Mining is now considering it.

Mr. CURTIS. Mr. President, I was mistaken; it is the Committee on Mines and Mining. I thought it was the Committee on Education and Labor. The Senator from Nevada [Mr. ODDIE] is the chairman of the Committee on Mines and Mining.

Mr. PEPPER. Mr. President, will the Senator from Missouri yield to me?

Mr. REED of Missouri. Yes; I yield.

Mr. PEPPER. As I have stated, the purpose of my motion is not to send this resolution to any particular committee for any ulterior reason, and least of all to delay intelligent action. I should like to send it to a committee which will give prompt and careful consideration to it, and which, if there is in it the makings of a practical suggestion, will report it out at as early a date as possible for the action of the Senate. If the Committee on Mines and Mining is the proper committee, if that is the committee which at present has this important subject under consideration, I shall ask the reference of the resolution to that committee.

The VICE PRESIDENT. The Senator amends his motion to that effect?

Mr. PEPPER. I so amend the motion.

Mr. COPELAND. Mr. President, will the Senator from Missouri yield to me?

Mr. REED of Missouri. I yield to the Senator from New York.

Mr. COPELAND. If I may be permitted to ask a question of the Senator from Pennsylvania, I should like to ask him if he remembers that during the Presidency of Theodore Roosevelt we had a situation similar to this, and Mr. Roosevelt invited the operators and the miners to the White House. They met there at 9 o'clock, and he gave them until 11 to find a way to settle the strike, and they found a way.

It is my judgment, Mr. President—and I want to ask if the Senator from Pennsylvania does not agree with it—that if the President of the United States in this crisis would call the operators and the miners to the White House, the mining of coal would be resumed within a very few days.

Mr. REED of Missouri. Mr. President, may I ask the Senator from New York if he does not know that the "big stick" has dwindled very perceptibly?

Mr. COPELAND. I should like to say, Mr. President, that I have tried this morning to keep politics out of this question and to put it on as high a plane as possible. But in response to the question of the Senator from Missouri I will say that in the matter, so far, we are using a willow wand and not a big stick. The "big stick" is needed; and if Senators could know as I know what the suffering is in the great cities when we have a situation like this, there would not be any hesitation to apply the "big stick."

I was health commissioner of New York when we had two situations like this to deal with, and I know what happens in those tenement homes in the slums when there is no coal to be had. I appeal, in the name of those people, to have relief by the quickest possible method of relief; and that is the reason why I am anxious to have this resolution passed upon this morning. Then, by courtesy of the Senate, I intend to offer for proper reference another resolution which I believe has in it a hope of a more permanent solution of this problem.

Mr. PEPPER. Mr. President, with the permission of the Senator from Missouri I will respond to the question of the Senator from New York by saying that I do recollect clearly the incident to which he refers, and add that if it was his intention to express by this resolution advice to the President of the United States to do likewise, his resolution is singularly deficient, because it suggests nothing of the sort, gives to the President nothing in the way of suggestion, and if it proposes anything, proposes the consideration by the President of a subject which it is perfectly well known he has under consideration already.

Mr. COPELAND. Mr. President, will the Senator from Missouri yield to me for a moment?

Mr. REED of Missouri. Yes; if I can do so and keep the floor.

Mr. COPELAND. I hesitate to press the matter, I will say to my friend from Pennsylvania, because I know how acute the political situation is in his State, and I would not want to embarrass anybody involved in it.

Mr. PEPPER. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Pennsylvania?

Mr. REED of Missouri. I yield again.

Mr. PEPPER. I would like to congratulate the Senator from New York upon the success with which he has kept politics out of his proposal.

Mr. REED of Missouri. Mr. President, I think I am the guilty party for having referred to the size of the "big stick." I did that with the utmost respect, and I am not very sure but that it would have been a good thing if we had never had a "big stick" in this country. I am inclined to commend the President when he says that he does not propose to go outside of his legal authority in undertaking to deal with this situation.

To my mind this is a government of law. A man who happens to be President of the United States has no more right to exercise power which he is not authorized to exercise than any private citizen has such a right. In so far as the President of the United States recognizes the rule that this is a government, not of men, but of law, I commend his administration.

There is one thing that interests me in this matter more than another; and I am going to drop into the vernacular, because it is the only language in which I can express my thought. The thing that interests me is the continued "passing of the buck." I know there is not a man in the Senate who understands that term, because you all look equally stupid and unresponsive when I mention it.

The thing that interests me is the passing of responsibility. It is pretty boldly intimated that the President should, by some sort of threat or coercion, compel one or the other of the parties to this controversy to yield. I do not think the President ought to do anything of the kind, and if we want force of any kind applied we ought to be courageous enough to authorize that force by a statute of the land.

To my mind it is an intolerable condition in any great country when two organizations of men, controlling some great natural product, can so demean themselves that because of a quarrel between these two bodies of men a hundred million people, to a greater or less extent, can be made to suffer. If such a condition exists, and can be remedied by any public authority, then this body, in connection with the House of Representatives, ought to take the responsibility of enacting the necessary remedial legislation. I have no interest in the matter from the political standpoint, and if we could eliminate all politics from this and similar questions, I think it would not be long before we would arrive at the conclusion that a conspiracy to freeze the people of the United States ought to be made a high crime and misdemeanor.

Why do we not do that? Because organizations of capital upon one side are potential, and organizations of labor upon the other side are potential. I believe that my entire public record, as well as my private record, sustain me in the statement that I have consistently, almost throughout my life, advocated the cause which is generally termed the cause of union labor. I believe that any set of employees have the perfect right to organize, and, as an organized body, to demand a better wage scale, or better working conditions, or other remedies which they think are necessary, and they have the right as an organized body, in my opinion, to quit at one time for the purpose of accomplishing their desires. But I deny utterly that they have the right then to go further and say that they will prevent other men from working. I deny the doctrine that any set of men, whether they number 2 or 2,000,000 men, have the right to say to any other set of men that they can not work at any time or at any place where they can find employment, and at any wage satisfactory to them.

As long as strikes were confined to contests between a particular employer and his employees the evil to which I have just referred was not of such magnitude as to demand general attention by the Congress, but when the system of organization, either among capitalists or among laborers, extends itself so that a disturbance or dispute between these two bodies results in the dispute not being confined to the employees of a particular company or the employers who operate a limited industry, but takes shape so that a dispute between an individual employer and his employees draws into it all of the capital upon one side and all of the labor on the other side, so that the entire country is embraced, we have arrived at a situation which does demand serious thought and, if necessary, some very determined action.

A general coal strike in the United States has many times been threatened, and some three or four times we have had such a strike. In each of those instances, if the strike had been perpetuated a few weeks longer than it was, there would have been general and widespread suffering in the country; thousands of people would have suffered, and many of them

would have frozen, and the industries of the Nation would have been literally paralyzed. These disputes have sometimes arisen over and grown out of local conditions. So we have two great bodies, one of capital and one of labor, engaging in an industrial warfare which might be as dangerous to the Republic as the invasion of our territory by a foreign enemy, and which might produce, and is very likely to produce within a short space of time, untold suffering.

That is a condition which can be remedied only by legislation. It can not be remedied, I will say to my friend from New York, by this resolution. This resolution would confer no authority. The Senate would take no responsibility under it. The Senate is unwilling to take any responsibility. The Senate is unwilling to use the "big stick." The Senator from New York would like to have the President use the "big stick" and take the responsibility. I think the President is right when he says that he is willing to do what he can in an amicable way to try to get these parties to agree, but that until he has the force of law back of him he refuses to usurp authority. If the Senate is ready to meet the question as men ought to meet questions, to accept responsibilities as they ought to accept them, and to devise a statute which will make these great public calamities impossible, then I am willing to take my share of the responsibility along with my brother Senators.

Mr. President, a while back we had a threat to tie up all of the railroads of the United States. If the transportation systems of this country were tied up for 30 days, absolutely tied up, there would be starvation in every city, there would be an absolute industrial paralysis, and there would be a greater financial loss to this country in 60 days, in my opinion, than the entire cost of the World War that was visited upon America.

Is there no remedy for a thing of that kind except for the President arbitrarily to assume the authority to seize the railroads or to seize the mines and to throw in the militia and the Regulars and by force and arms usurp the powers of a dictator? Is there no other remedy than that? I say there is. There is a remedy whenever the Congress sees fit to rise to the occasion. Some day it will rise to the occasion, but I imagine it will wait until some dreadful calamity has fallen upon our country. What I say, although it will be misconstrued by some, is that the best doctrine that was ever announced for the benefit of those who belong to organized labor was that organized labor will disintegrate and will be destroyed whenever organized labor takes a step as radical as has been threatened in the past and produces a general public calamity. When that time comes all the members of organized labor will discover that they are also members of the great body of the American people and that they suffer keenly as do all the rest of the people.

I see no use in the resolution submitted by the Senator from New York, but I am ready to join with the Senator from New York and the Senator from Pennsylvania and other Senators in enacting laws that will vest in some proper authority the power to meet these great emergencies and to protect the American people.

Mr. ODDIE. Mr. President, I agree fully with the Senator from Missouri that as this is such a grave problem politics should not enter into it in any manner whatever. The problem should be handled as some of our great problems that affect the West, in which Senators from both parties work in harmony as they have worked this summer, with never a thought as to what party they belong to, but simply looking to the welfare of the West and the practicability of the legislation under consideration.

Mr. President, the problem has been before the Committee on Mines and Mining for several weeks. I know that the members of the committee have been watching the coal situation with grave concern. We are as sympathetic as any men can be toward those who are suffering as the result of the unfortunate condition that faces the country because of this coal condition. I have not consulted with the President about the matter, but I will say, knowing the man as I do, that he is as sympathetic as any man can be for those who are suffering, and is as anxious as any man can be that this great problem be settled in a practical, intelligent, and humane way.

As chairman of the Committee on Mines and Mining I have not made any move to force the legislation, because I have believed that it would embarrass a situation which is already overburdened with embarrassment. I have believed from the start that we should watch it carefully, study it to the very best of our ability, and act when the time came; but while the negotiations looking to a settlement of the dispute have been under way I have considered that it might stir up trouble which would only aggravate the situation.

Mr. NORRIS. Mr. President——

The VICE PRESIDENT. Does the Senator from Nevada yield to the Senator from Nebraska?

Mr. ODDIE. I yield.

Mr. NORRIS. Has the Senator's committee been holding back because of the negotiations that have been going on?

Mr. ODDIE. I will not say wholly because of the negotiations.

Mr. NORRIS. The Senator said they did not want to act because of embarrassment that exists now. Does not the Senator think that the point has been reached where Senators ought to act, and that we ought to take some steps to enact a law that would relieve not only the pending situation but relieve any similar situation that might arise in the future? Why should we delay any longer?

Mr. ODDIE. If there is any blame whatever for any delay, I want to assume responsibility for it. I believe that the legislation before our committee is of vast importance to the future welfare of the coal-mining industry. It is primarily based on scientific and intelligent fact finding.

Mr. McKELLAR. Mr. President——

The VICE PRESIDENT. Does the Senator from Nevada yield to the Senator from Tennessee?

Mr. ODDIE. I yield.

Mr. McKELLAR. About what time will a bill be reported out from the Senator's committee? Does the Senator think a bill could be reported out to the Senate, passed by the Senate, and passed by the House in time to take care of the situation during the cold weather that is facing us in the North?

Mr. ODDIE. That is a difficult question to answer. I deplore, as much an anybody can, the unfortunate situation that exists, and I have hoped every day that daylight would appear in the problem and that this great conflict would be settled satisfactorily to all concerned—the public, the miners, and the operators.

The legislation to which I have referred has been referred to the Department of Commerce. There are highly trained scientific men in that department who have been studying the matter, but I can not predict when a report will come from them. I believe that before long we will get a report of some kind on this legislation that has been submitted to the department for its consideration. I believe the Department of Commerce is amply well equipped and qualified to give us a scientific and practical report on this legislation that we have submitted to them.

Mr. NORRIS. Mr. President——

The VICE PRESIDENT. Does the Senator from Nevada yield to the Senator from Nebraska?

Mr. ODDIE. I yield.

Mr. NORRIS. As I understand it now, the Senator is waiting for the Department of Commerce to tell the committee what to do. I would like to call the attention of the Senator to the fact that the experts who are working for the Department of Commerce probably can not keep the people who are suffering from cold and the others who are paying exorbitant prices to keep warm from undergoing the hardships which they are now enduring.

Mr. ROBINSON of Arkansas. Mr. President——

The VICE PRESIDENT. Does the Senator from Nevada yield to the Senator from Arkansas?

Mr. ODDIE. I yield.

Mr. ROBINSON of Arkansas. Senators are proceeding upon the theory that the failure of the Congress to legislate upon the subject is due entirely either to the negligence of the two bodies or their fear of the political influences which would resist such legislation. No subject can be of greater importance to the people of the country than the protection of citizens against combinations or conspiracies which deprive them of the comforts and the necessities of life. But I would like to know from the Senator from Missouri [Mr. REED], the Senator from Nebraska [Mr. NORRIS], and from other Senators how they propose to deal legislatively with the punishment of combinations or conspiracies with respect to mines that are not in operation, whether they be coal mines or other mines?

It has been held by the Supreme Court of the United States that Congress has no power to regulate labor engaged in manufacture. I think while we are discussing the subject we ought to deal with it in perfect frankness. A constitutional amendment may be required to give Congress the power to protect the country against a combination on the part of operators and coal miners which has for its result, whatever may be its purpose, misery and indescribable suffering to the people of the country. But in my judgment the subject is full of difficulties when viewed from the standpoint of the question of the power of Congress to regulate the matter, taking into consideration the decisions of the Supreme Court of the United States.

If the Senator from Nevada [Mr. ODDIE] were to report from his committee a provision dealing with the question, would he say that any laborer or organization of laborers who combine among themselves or with capitalists or organizations of capitalists to prevent the operation of coal mines shall be guilty of a crime against the United States; and if so, from what clause of the Constitution would he derive that power?

Years ago, when the situation to which the Senator from Missouri referred during his remarks arose respecting the railroads of the country, when a national strike appeared imminent and it looked as if the railroads of the United States would be closed down, I stood in this body and demanded of the Congress that it exercise its power under the clause of the Constitution giving Congress plenary control over the regulation of interstate commerce, to say to both railroad owners and railroad employees that they could not carry their differences to an extent which would paralyze the commerce arteries of the country and bring hunger, poverty, and death to the countless millions of consumers in the United States who are dependent for their very living on a continuance of the operation of the railroads in commerce. But the Congress did not avail itself then of the power that it knew it had in the face of a threatened condition which meant ruin to the country.

And now, while we are considering the situation, we might just as well go into it thoroughly. There is not the slightest likelihood that the Committee on Mines and Mining can agree upon a bill which would give the President the power or would give any other agency in the country the power to deal with the subject adequately, for the reason that grave doubt exists as to our power to legislate effectively on the question. It is one thing to agree that an evil exists, that an abuse is being perpetrated. It is quite a different and a more difficult thing to abolish the evil and prevent a recurrence of the abuse. I commit myself here and now without qualification to the exercise of all the power vested in the Congress of the United States by the Constitution of the country to prevent combinations which have for their effect, if not their purpose, the freezing of the people of the United States who are compelled to use coal for fuel.

It is said that the President's power to deal with the question is doubtful; that we have given him no authority. What authority can we give him without amending the Constitution?

Mr. EDGE. Mr. President——

The VICE PRESIDENT. Does the Senator from Arkansas yield to the Senator from New Jersey?

Mr. ROBINSON of Arkansas. I yield with pleasure.

Mr. EDGE. With great regard to the Senator's study of this situation, is it his opinion that the situation could be relieved at all through State legislative action? In other words, that the mines being naturally, in the very order of things, intrastate, the State legislatures could delegate power to State executives beyond the power that can be delegated to the General Government?

Mr. ROBINSON of Arkansas. Without doubt most of the States would under their constitutions have complete power to deal with the subject, either as police regulations or under other provisions of their constitutions.

Mr. EDGE. Is not that, then, almost an answer to the problem as we are facing it to-day?

Mr. ROBINSON of Arkansas. It is not a complete answer, because the States fail to exercise their power, the President fails to take any action, Congress does not legislate upon the subject, and there is throughout a failure of governmental authority to function touching the question.

The reason for this failure I shall not attempt at this time to define, but it is entirely possible that if the President wanted to do so without employing the "big stick" and without exercising any unlawful authority, he could induce the operators and the miners to effectuate an agreement. If that were accomplished, it would not justify the failure on the part of Congress to deal with the subject legislatively, and the President's intervention or mediation in the matter ought only to be expected, if at all, as emergency action.

It has come to be almost an annual event, as regular as the recurrence of Christmas and the Fourth of July, that the owners of anthracite mines and the men who work in them cease production as winter approaches. The inevitable consequence is that the small supply of the product on hand is increased almost immeasurably in price. Every ragged urchin and every poverty-stricken widow, where fuel is required, is compelled to suffer, to pay extortionate prices for the benefit of those who act as if they have no regard or consideration for social relations or obligations.

It is all right to say that the President has no authority to deal with the question, and I am not going to request him to do it if he does not want to do it. If he feels that he can not do it, I am willing that he shall take the course which he is prompted to take under his oath; but it is significant that not only during the reign of him who wielded the "big stick" instead of the scepter, and even during the administration of the amiable and tender-hearted President, Mr. Harding, when the crisis had been reached during his term, when the coal stoves in the tenement houses in New York and other great communities in this country were being closed, when they who were suffering were drawing their rags closer about them and shivering on the verge of despair, Mr. Harding used his influence to cause the mines to be operated. So, Senators, it is not altogether a question of authority; the subject is affected with obligations and necessities, and any man or officer who thinks he can be helpful in terminating the situation which every Senator here deplores must find his excuse in his own conscience and his own conception of responsibility for failure to employ that influence.

Mr. ODDIE. Mr. President——

Mr. FLETCHER. Mr. President, will the Senator from Nevada yield to me for just a moment in this connection?

The VICE PRESIDENT. Does the Senator from Nevada yield to the Senator from Florida?

Mr. ODDIE. I yield.

Mr. FLETCHER. The Senator from Arkansas [Mr. ROBINSON] will recall that President Harding sent a message to Congress on this subject. He therein outlined the difficulties and he stressed the pressure that was brought, the control that was exercised, and all that sort of thing. As a result of that message Congress proceeded to legislate. It created a Coal Commission. That Coal Commission was composed of very able and patriotic men, such as former Vice President Marshall and Mr. John Hays Hammond. The commission worked on this subject and made a study of it for some months—for a year or more, perhaps. It finally made a great report to Congress in four volumes, which I have here before me. It outlined certain recommendations.

It would seem unnecessary now to ask for any further fact finding on the subject. The facts are all given to us in this report; the whole situation is disclosed; all the conditions are set forth, and the recommendations of that commission are very clear and definite. So it would seem unnecesary to go into any further study of the subject or to ascertain any more facts, either by reference to the Commerce Department or any other department. The queston is whether we want to enact the legislation as recommended by the coal commission, and, if so, why that legislation is not proposed, and why we do not take it up and seek to solve the problem along the lines recommended by that commission? If there is anything further needed or if the recommendations of the commission are not approved by the President, why is there not something else submitted to us on the subject, some different recommendations, or some kind of action suggested for Congress to take respecting this very great problem?

Mr. ODDIE. Mr. President, the legislation to which I have referred and which is now before the Mines and Mining Committee of the Senate embodies many of the recommendations of the coal commission. There have been some changes to meet conditions which have been altered somewhat since that report was made, but in many respects the bill contains many of the recommendations of the United States Coal Commission. The legislation to which I have referred was originated before the present crisis in the anthracite industry occurred; so it is not before us to-day as remedial legislation for that particular crisis. I believe, however, if the legislation now proposed had previously been in force and effect that the present crisis might have been averted.

Mr. COPELAND. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Nevada yield to the Senator from New York?

Mr. ODDIE. I yield.

Mr. COPELAND. I should like to ask the Senator a question. I assume that this resolution of mine will be referred to the Senator's committee, and I wish to ask, in all seriousness, is there any likelihood whatever that the Senator's committee will bring to us a proposal for legislation which will be of any benefit whatever in the present strike? Is it not a fact that a report will come in about the time warm weather commences, when no coal will be needed? In other words, is it not true that the reference of this innocent resolution to the Senator's committee will have no effect whatever in the effort to find a solution for the present difficulty?

Mr. ODDIE. Mr. President, I can not say that the assumption of the Senator from New York is correct at all, because the Committee on Mines and Mining is exceedingly anxious that something should be done to help the situation if it is possible so to do.

The bill to which I have referred and which is now before the committee is of very broad scope; it will require the careful study of the Senate; it can not be passed on in a day.

I should like to assume a little more responsibility. I can not speak for the Secretary of Commerce or say what his ideas are or when he will report this bill or what his report will contain. I met him some days ago, just for a few minutes, and referred to this bill and told him I hoped he would have it studied very carefully. He said he would. I then suggested that, in my opinion, it was not wise to agitate this question at a time when both parties to the controversy were negotiating and trying to come to an agreement. So I do not want all the blame for any delay, if any attaches, to be placed on the Secretary of Commerce.

Mr. REED of Missouri. Mr. President, I should like to have the privilege of answering the question asked by the Senator from Florida [Mr. FLETCHER]. He asked why it was that the President did not submit a remedial suggestion and why Congress did not consider this question. I can answer that. We are too busy regulating the affairs of the world to regulate our own interstate commerce. We have spread ourselves out so that we are undertaking to take care of everybody, and the result is we are failing to take care of the family at home. I should like to see the attention of Congress directed just for a little while to the business of Congress and the business of the people of the United States, and I think we will find we have problems enough to engross all our talents and all our abilities, whether they be great or small. I invite the attention of Congress to the United States of America and to the wisdom of letting the rest of the world take care of its own business.

Mr. REED of Pennsylvania. Mr. President, one or two statements have been made in this debate which I do not think ought to go unchallenged. In all the discussion of this anthracite strike it has been assumed that the sufferers were the shivering women and children who buy their coal by the pail in New York City and consumers of that sort.

Mr. President, nine-tenths of the United States and all the rest of the world get along very comfortably with the use of bituminous coal. There is twice as much capacity for the production of bituminous coal in the United States to-day as there is demand for the product. There is no reason in the world why those communities that have been using anthracite coal can not use bituminous coal, and as a matter of fact that is what they are doing to-day, and it is very much cheaper than anthracite. So that the shivering women and children who draw their rags around them and go out with their pails to get fuel can buy a perfectly good and safe fuel for less than anthracite costs when there is no strike, and that is what they are doing in New York City at the present time.

In addition to that, Mr. President, during the war there was developed a very large capacity for the production of by-product coke, which is entirely fitted for use in the same grates and furnaces that have been built to burn anthracite. We have a larger production of that fuel to-day than we ever had before, and it can be and is being used generally as a substitute for anthracite.

Mr. ROBINSON of Arkansas. Mr. President, will the Senator yield for a question?

Mr. REED of Pennsylvania. I yield.

Mr. ROBINSON of Arkansas. The Senator from Pennsylvania, then, who lives in a great coal-producing State, thinks that no suffering is occurring because of the strike?

Mr. REED of Pennsylvania. I am just about to state what I think on that subject. I am coming to that exact point.

Mr. ROBINSON of Arkansas. I want to understand the Senator's position.

Mr. REED of Pennsylvania. In addition to an oversupply of bituminous coal and a very large supply of by-product coke, which can be used as substitutes, we have to-day in America a larger supply of fuel oil at a lower price than we have ever known before, and that can be and is used for domestic heating and for industrial purposes. So when we talk of suffering, Mr. President, we make a mistake if we direct our attention to that small area in the United States which burns anthracite coal habitually. The people of that area are merely deprived of a luxury to which they have become accustomed; but they can turn to much cheaper substitutes that supply a greater heating value per ton than the anthracite for which they cry.

Senators talk of suffering. I will tell you where the suffering is. It is in the mining regions of Pennsylvania; and no picture of distress that has been painted by those who are trying to sympathize with the consumers is in the least adequate to depict the suffering that exists to-day in northeastern Pennsylvania, where this coal is mined. Yet I have not heard one voice lifted for the 155,000 miners and the million of other people whose welfare depends on those 155,000 miners; I have not heard one voice lifted to depict their suffering, because not only are they compelled to turn to another fuel but their whole income is cut off; and to-day we are having bankruptcies among all the small tradespeople up there; we are having a distress among the miners and their families that is beyond any picture that has been painted here of the distress of the consumer.

Mr. REED of Missouri. Mr. President, I desire to ask the Senator, for my own information, what are the wages paid in the anthracite mines? What wages were paid when they were running?

Mr. REED of Pennsylvania. The wages that are paid in the anthracite mines are zero.

Mr. REED of Missouri. I said "when they were running." Before these men struck what were the wages paid?

Mr. REED of Pennsylvania. They had a fairly good scale of wages. Of course, it varied according to the employment. There were a hundred items in the scale.

Mr. REED of Missouri. What was the general average of it? Can the Senator give us an idea of that?

Mr. REED of Pennsylvania. I do not believe I can.

Mr. REED of Missouri. I have heard the statement made that the poorest paid man in the mines—I do not mean the individual, but in classification—received $7 a day.

Mr. REED of Pennsylvania. Oh, no; I do not think the wage was anything like that much.

Mr. REED of Missouri. Are they paid generally by the ton, or are they paid by the day?

Mr. REED of Pennsylvania. They are generally paid by the ton, by the amount of their output.

Mr. REED of Missouri. Is it not true as a general proposition that the miners working in anthracite mines had a scale of wage which would enable an industrious, able-bodied man to earn from twenty to thirty and thirty-five dollars a week, and is not the dispute whether they shall have more than that, and is not that the reason they are suffering—because they quit?

Mr. REED of Pennsylvania. Of course, the reason they are suffering is because they quit. They thought that their pay was inadequate, and they quit, as they had a perfect right to quit, in order to get higher pay——

Mr. REED of Missouri. Undoubtedly.

Mr. REED of Pennsylvania. Just as the Senator or I would do if we were not satisfied with the pay we were getting. I want to say this, however, about coal-mining wages: It looks very pretty when you see the statement in the papers that this or that coal miner, by working industriously, has made a large sum per day or per week; but let us not forget that of all the businesses in which a large number of men are engaged in this country, there is none which includes so many days of idleness as does coal mining. In my own region in Pennsylvania I am told that the average work per week which a coal miner can get is well under three days; and when we talk about his wages per day we must remember that he is lucky to get three days out of seven at that rate, with the other four bringing him in no pay at all.

Mr. REED of Missouri. Mr. President, a year or more ago, when we had this question before the Manufactures Committee, we went into the question of wages. I will try to produce the figures later in the day; I do not want to trust to my recollection; but my recollection is that among the classified employees, speaking of the coal industry generally, the lowest wages were $5 per day.

It is true, as the Senator states, that there is a great surplus of mine labor; but are we to understand, then, that if there are two men where there should be one, and therefore each of them works only half the time, each of them must have wages based upon the scale that he would be paid if he were working all of the time; and, therefore, that he has the right to quit, as he does have the right, but having voluntarily quit, to complain because he does not draw wages for which he refuses to work?

Mr. REED of Pennsylvania. Of course I do not mean that the community ought to support a large number of miners in semiidleness. The situation arose, as the Senator will recall, out of our demands in war time, when we adopted every expedient to increase our coal production, and there were drawn into coal-mining in this country about 200,000 men more than were needed for the peace-time requirements of the country. We are now in the middle of a period of reconstruction in the industry, and we are suffering throughout the whole coal industry from the same economic laws that we have seen working out in agriculture, only we have not been able to develop a "coal bloc," and we have not been able to bring

the needs of the industry to the attention of the country as has been so effectually done with agriculture; but it is the same thing.

Mr. REED of Missouri. I hesitate to question any statement of fact made by the Senator from Pennsylvania with reference to the coal industry, because it is a very great industry in his State. My recollection of the figures, however, is that we had for many, many years this surplus of labor in the mines, not only the anthracite but the bituminous mines. I think there was a time when the miners, because there was a surplus of labor and because therefore it could be done, had great outrages put upon them by their employers, and that it became necessary for these men to organize. The question I am concerned with now, however, is whether this strike is not to raise wages that already are very reasonable wages, and, if so, whether we need shed any tears over the man who is hungry because he refuses to work. I do not see it that way.

Mr. REED of Pennsylvania. Mr. President, if the Senator could go with us into these towns in northeastern Pennsylvania where anthracite comes from, and could see the suffering on the part of people who have not any say about whether the mines should resume or not, I know that his heart would be touched.

Mr. REED of Missouri. It would be; and that is just where these strikes illustrate their evil, because, as the Senator states, people in no manner responsible for the strike suffer—business men, small institutions; and as far as they are concerned that argument only sustains the argument I tried to make of the necessity of doing something to stop these industrial wars. I still ask the Senator, however, to examine the figures and see what these wages are, or I will try to do it.

Mr. REED of Pennsylvania. I shall be very glad to do it; but I do not want to undertake to give figures from memory where I may be wrong.

Mr. REED of Missouri. I do not, either.

Mr. REED of Pennsylvania. May I say to the Senator, further, that we are all agreed that there is a necessity to do something to stop these strikes that bring frightful suffering; but when we say there is a necessity to do something we are like the old fellow who watches the fire and says, "Why doesn't somebody do something?" There is no help in that kind of ejaculation; and yet that is just what this resolution of the Senator from New York is, in substance.

Mr. REED of Missouri. I agree to that.

Mr. REED of Pennsylvania. He is lifting up both hands to Heaven and saying, "Somebody do something!" That does not help us in the least toward any solution of the difficulty.

Mr. ROBINSON of Arkansas, Mr. COPELAND, and Mr. HEFLIN addressed the Chair.

The PRESIDENT pro tempore. Does the Senator yield; and if so, to whom?

Mr. REED of Pennsylvania. I yield first to the Senator from Arkansas.

Mr. ROBINSON of Arkansas. Mr. President, the Senator from Pennsylvania [Mr. REED] has very properly painted the picture of the misery and suffering that is occurring in the homes of the miners who are out on strike. The statement that he makes is an added reason; it contributes great force to the declaration that in the event the operators of mines and their workers are unable to agree some way must be found to operate the mines; and the quicker they get that in their minds the quicker will come relief and protection not only to the helpless women and children who find it necessary to use coal as fuel but to those who are dependent upon the workers in coal mines.

I have not attempted to say that the blame is upon the workers. I have not attempted to say that it is exclusively upon the owners of the mines. I have said that, since they have failed to reach an agreement, and are perpetuating a condition which, if continued long enough or if repeated often enough, will destroy the lives of thousands of helpless people, there must be found a remedy, if it is necessary to amend the Constitution of the United States to that end.

This country can not be dependent always upon the whim or caprice of the men who own mines or of the men who work in the mines. The latter have a perfect right to quit work, of course, but they have no right to combine, as many circumstances tend to show they have done, to prevent the operation of the mines, to prevent others from working who are willing to work, to prevent owners from operating their mines who are willing to operate their mines, and thus bring misery, if not death, to thousands of people.

Mr. REED of Pennsylvania. Mr. President, I can answer that by saying that, so far as I know—and I think I would know it if it had happened—there has not been a single case of violence in the course of this strike against anybody who was trying to work. There has been no picketing of the mines, there has been no influx of men who wanted to work there, and no violence shown by the strikers.

Mr. ROBINSON of Arkansas. It has often been said that there is a combination between the strikers themselves and the owners of the mines to prevent the operation of the mines. Does the Senator think the circumstance he has just mentioned, in view of the course other strikes generally take, tends to establish the truth of the assertion that that combination exists?

Mr. REED of Pennsylvania. No; I do not, for the reason that I think the preventive lies in our State law, which requires the licensing of anthracite miners. There are elements of danger and difficulty in anthracite mining which do not exist in other branches of mining. The veins are very much folded, and anthracite mining is a skilled employment. Unless one has a miner's license, he can not be employed in a mine.

Mr. ROBINSON of Arkansas. Therefore there is nobody to take the places of the miners who are out on strike?

Mr. REED of Pennsylvania. Precisely; that is the fact. That brings the Senator right up to the interesting constitutional question, What would he do if he were a despot in America? Would he compel the men who have those licenses to go back to work in those mines, to arbitrate the question of their wages, and fix them by any system he pleases? Does the Senator think that America for one minute will stand for anybody with a big stick undertaking to force those men back to work against their consent?

Mr. ROBINSON of Arkansas. Certainly not; and I have said so repeatedly during the course of the discussion this morning. But I have said also that I believe if the President of the United States wanted to do so, if he chose to intervene in the matter he could accomplish results similar to those accomplished by Mr. Roosevelt, and results similar to those accomplished by Mr. Harding.

Mr. REED of Pennsylvania. I am interested to hear the Senator say that, because perhaps his suggestion would make the resolution more specific. He agrees with me, now, that it does not give the President any help at all in just calling on him to do something.

Mr. ROBINSON of Arkansas. I said that.

Mr. REED of Pennsylvania. How would the President go about taking action? The Senator would not have him operate the mines with a standing army?

Mr. HEFLIN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Pennsylvania yield to the Senator from Alabama?

Mr. REED of Pennsylvania. I yield.

Mr. HEFLIN. The resolution, as it now stands, would at least give the President an opportunity to say just what he thought his powers were, and just how helpless he is in the matter, because, as the Senator from Arkansas has so ably and well pointed out, the public has a great interest in this situation, and the public is suffering. The President, who speaks for the public in this country, ought to be called upon, and should be allowed, to state to this body just what he thinks about the situation, and should let us know, if he has not the power, in order that we may give it to him.

Mr. ROBINSON of Arkansas. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Pennsylvania yield further to the Senator from Arkansas?

Mr. REED of Pennsylvania. I yield.

Mr. ROBINSON of Arkansas. I stated in my former remarks, which perhaps the Senator from Pennsylvania did not hear, that I thought the President could mediate, if he chose to do so, and settle the controversy between the workers and the mine owners, but that I had no disposition to urge him to do that if he did not choose to undertake the task. I made that statement in the beginning.

I still think that if the President wanted to mediate this controversy he could do it in a few days. There is a question underlying the policy which such action would involve which is worthy of consideration. Evidently the President wants Congress to take the responsibility, and I think I have shown that the Congress has doubtful authority, if any, to deal with the subject.

Mr. REED of Pennsylvania. Mr. President, within the last 48 hours I understand that the operators have offered to reopen the mines at once if the men will go back under a five-year working agreement and leave the question of wages to arbitration. They offered to continue to pay the wages in effect at the moment the strike was declared, and to leave the question of a rise or decrease in wages to arbitration. The men, as was their full right to do, have refused to accept any such arrangement. There is plain notice to the President that if he calls them in and asks them to go to work, and to arbi-

trate the question of wages, he will simply be refused. What is the use of his making the same proposition that has just been turned down? The President is powerless, partly because we have given him no power, and it is not fair to ask him to make threats or bluffs when every man knows that in his hand there is no power, largely because Congress has not given him any, and Congress has not given him the power because it did not know how to do it.

Mr. ROBINSON of Arkansas. Mr. President, if the Senator is saying that to me, or thinks he is replying to anything I have said upon the subject, I am utterly unable to understand why he does so, because I said in the beginning that I was not in favor of urging the President to take action unless he wanted to do so. But I still have the opinion that if he desired to mediate the difficulty he could do it, and I believe his intervention in the matter would end the trouble in three days.

Mr. REED of Pennsylvania. Mr. President, if I was looking at the Senator from Arkansas, it was probably only because of the pleasure of doing so. I was addressing my remarks to the whole Senate.

Mr. ROBINSON of Arkansas. The Senator from Pennsylvania overwhelms me.

Mr. ODDIE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Pennsylvania yield to the Senator from Nevada?

Mr. REED of Pennsylvania. I yield to the Senator.

Mr. ODDIE. Mr. President, I should like to refer to the statement of the Senator from Pennsylvania regarding the use of substitute bituminous coal. I will ask the Senator if it is not a fact that the production of bituminous coal during this time of interrupted production of anthracite has increased to a very large extent?

Mr. REED of Pennsylvania. It has increased to a considerable extent, but not to such an extent as to enable the Pennsylvania mines to reopen where they are closed up because of discriminatory rail rates.

Mr. ODDIE. I will ask the Senator from Pennsylvania if he has heard that the increased production of bituminous coal, because of this strike in the anthracite industry, will amount to something over 100,000,000 tons a year?

Mr. REED of Pennsylvania. Oh, no, Mr. President; I do not think it would amount to so much. As I recall the figures, the total production of bituminous coal in the whole country is about 500,000,000 tons a year. I do not think there has been anything like a 20 per cent increase.

Mr. ODDIE. But a very substantial increase?

Mr. REED of Pennsylvania. I state the figures with hesitation, because I do not recall them exactly.

Mr. ODDIE. In the opinion of the Senator from Pennsylvania, has not a large amount of that increase gone to the former consumers of anthracite?

Mr. REED of Pennsylvania. I think a considerable part of it has; yes.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Pennsylvania to refer the resolution of the Senator from New York to the Committee on Mines and Mining.

Mr. COPELAND. Mr. President, I am sure the Senator from Pennsylvania did not wish to be unfair. He said that great emphasis had been placed on the suffering of the poor in New York. He did not give me the honor to listen yesterday to what I said, and he has not read the RECORD. At the very beginning of my remarks yesterday, I may say to the Senator from Pennsylvania, I used this language:

> I am not going to speak about this matter because of the suffering which takes place in the homes of the miners of Pennsylvania. I have no doubt that, because they are deprived of income, many members of miners' families will die during the winter.

The Senator spoke also about the miners. I said yesterday:

> I am not going to speak either, Mr. President, from the standpoint of the merchants in that great section of Pennsylvania, merchants who are deprived of all income because their natural customers are unable to pay their bills because of the strike.

So we did make reference yesterday to the suffering in the Senator's State. The Senator says that we stand up and ask, like the old chap, "Why does not somebody do something?" If the Senator will read the pending resolution he will find that it is directed to the President of the United States. The President is the "somebody" we are asking to do something, and I simply recall history to the Senator's mind, that other Presidents under similar circumstances have done the same something which the present President might do if he were so inclined.

There has been a charge, too, about the miners, and reference made to the miners' license law. I would not have that changed. I know what it means to these men to go down into the coal mines of Pennsylvania. I have seen them without legs, without arms, without eyes, their skin tattooed with coal from premature explosions. They must know how to do that business; otherwise they are not entitled to go down into those mines at all. But there has been a charge of lack of definiteness, and I send to the desk a proposed joint resolution, which I will ask, out of order, to have received and referred to the Committee on Interstate Commerce. I also ask to have it read from the desk.

The PRESIDENT pro tempore. Without objection, the joint resolution will be received and referred to the Committee on Interstate Commerce, and it will be read for the information of the Senate.

The joint resolution (S. J. Res. 42) to authorize the President of the United States during the present anthracite coal strike to supervise or take possession and assume control and operation of any anthracite coal mine, and for other purposes, was read the first time by its title, the second time at length, and referred to the Committee of Interstate Commerce, as follows:

Resolved, etc., That the President of the United States during the continuance of the present anthracite coal strike be, and he hereby is, directed and empowered, in the interest of national security and the general welfare, to supervise or to take possession and assume control and operation of any anthracite coal mine or equipment, and to supervise or operate the same in such manner as may be needful or desirable for the duration of the present strike, which supervision, possession, control, or operation shall not extend beyond June 1, 1928.

SEC. 2. That while operating, or causing to be operated, any such anthracite coal mine the President is hereby authorized and empowered to fix the price of anthracite coal at the mines and to fix the compensation of the miners and others employed in such mines.

SEC. 3. That the President be, and he hereby is, authorized and empowered to designate the Interstate Commerce Commission as Federal fuel distributer during this emergency, which commission shall have full power, under the direction of the President, to deal with the transportation and distribution of anthracite coal.

SEC. 4. That any operator or owner, whose mine, business, and appurtenances shall have been taken over by the President, or supervised by him, shall be paid a just compensation for the use thereof during the period that the same may be taken over or supervised, which compensation the President shall fix: *Provided, however,* That if the compensation so fixed by the President under the above provision shall not be satisfactory to the person or persons entitled to receive the same, such person or persons shall be paid 75 per cent of the amount so determined, and shall be entitled to sue the United States to recover such further sum as, added to the said 75 per cent, will make up such amount as will be just compensation therefor, such suit or suits being hereby authorized under the appropriate section of the Judicial Code of the United States.

SEC. 5. That the sum of $10,000,000 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to enable the President to carry out the provisions of this Act; such appropriation being hereby made immediately available and to continue available until expended or covered into the Treasury by the President.

Mr. LENROOT. Does the Senator from New York desire to have a vote now upon the pending resolution?

Mr. COPELAND. Yes.

The PRESIDENT pro tempore. The question is upon agreeing to the motion of the Senator from Pennsylvania [Mr. PEPPER] to refer the resolution to the Committee on Mines and Mining.

Mr. PEPPER. Mr. President, it seems to me that while we are discussing the question of the President's attitude toward what he ought to do it is just as well that we should remind ourselves that the President has not left us in doubt as to what the duty of Congress is and what we ought to do. I should like at this point to read from the message of the President addressed to the Congress at the opening of the present session a single paragraph dealing with the subject now before the Senate.

The President said:

> At the present time the National Government has little or no authority to deal with this vital necessity of the life of the country. It has permitted itself to remain so powerless that its only attitude must be humble supplication. Authority should be lodged with the President and the Departments of Commerce and Labor, giving them power to deal with an emergency. They should be able to appoint temporary boards, with authority to call for witnesses and documents, conciliate differences, encourage arbitration, and in case of

threatened scarcity exercise control over distribution. Making the facts public under these circumstances through a statement from an authoritative source would be of great public benefit. The report of the last coal commission should be brought forward, reconsidered, and acted upon.

The PRESIDENT pro tempore. The hour of 2 o'clock having arrived, the resolution goes to the calendar.

THE WORLD COURT

Mr. LENROOT. Mr. President, I move that the Senate proceed to the consideration of Senate Resolution 5 in open executive session. Pending that motion I understand that the Senator from Nebraska [Mr. NORRIS] has given notice several times of a desire to speak somewhat briefly upon the Tariff Commission, and I am willing to withhold the motion if he desires recognition now.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Wisconsin, pending which the Senator from Nebraska is recognized.

Mr. NORRIS. Mr. President, I am asking recognition pursuant to the notice which I gave, and under the procedure of the Senate running over a century I am entitled, I think, to preference in recognition even over the Senator from Wisconsin in making his motion to go into open executive session. But the Senator has kindly withheld his motion, so that question is not involved.

The PRESIDENT pro tempore. The Senator from Nebraska will proceed.

THE TARIFF COMMISSION

Mr. NORRIS. Mr. President, the Tariff Commission is a quasi judicial body. It was established after several years of discussion and consideration both in and out of Congress. The establishment of the Tariff Commission came about as a result of a feeling on the part of Congress, and I think of the country, that there ought to be some body nonpartisan in its operation, judicial in its work, unbiased by partisanship or party feeling that usually pervades the atmosphere in the enactment by Congress of a tariff. So that all parties to a great extent finally reached the conclusion that some organization permanent in its character ought to be established by law for the purpose of giving this kind of scientific and unprejudiced information to the President and to Congress, so that they could act intelligently upon the tariff question.

We have as a result the Tariff Commission. I believe there will be no dispute by all students of the question that I have outlined its purpose and the reason for its existence properly and fairly. There are those, however, who believe that the Tariff Commission should be used as an instrumentality partisan in its nature for the purpose of carrying out a partisan purpose to building a tariff without regard to scientific information. I believe that President Coolidge belongs to that class.

In my discussion of the question I want to state, I think with all fairness, that I have in my mind or in my heart no prejudice of any kind against President Coolidge, and I am not charging him with dishonesty or malice in holding the view that I think he holds; and yet, at the same time I do not want anybody to take what I say on this branch of the subject as an apology for what I do say. I think he has misconstrued not only the law but the spirit of the law, and that he has undertaken to use his high office in the control of that commission contrary to the real spirit and intention of the law itself. In order that I may be absolutely fair in the discussion of the proposition as far as the President is concerned I am going to call the attention of the Senate to the opinion expressed by one of his best friends and supporters that in my idea as to his conception of his duty I am correct. I want to read a few extracts from an article written by William Allen White, whom everybody knows is one of the President's best friends and always has been. This article appeared in Collier's Weekly for December 26, 1925. In making a comparison of different Presidents, Mr. White said:

The Scotch in Wilson—

He was there referring to President Wilson—

made him save what he could, but he invested his money chiefly in municipal bonds, State bonds, and such securities as would not, under any circumstances, be affected by his presidential attitude. He would no more have invested in United States Steel than in a smuggling enterprise. Yet, because Coolidge believes in the power of the esoteric and mystical qualities of business to produce a happy people, he would no more question an industrial investment than he would the bonds of the American Bible Society.

After his election in 1924 President Coolidge felt definitely the mandate to reconstruct American Government along the lines of his own deep conviction that the business of America is business. One by one the various commissions of Government—the Interstate Commerce Commission, the Federal Trade Commission, the Tariff Commission—accepted the dictum of the President that the business of America is business.

Again, Mr. White said:

When one understands that faith in a consecrated commerce which shall redeem the world, one may understand why Coolidge would frankly load his Tariff Commission with avowed high-tariff protectionists who feel it their duty not to sit as unbiased judges upon questions scheduled, but as avowed advocates of protected industries. We can also understand how he would conscientiously refuse to intervene to stop the prosecution of a United States Senator who had once been acquitted upon a clearly trumped-up charge.

His mental process in these two cases is simply this: Without a high tariff the owners of many of the little mills of New England would either have to close their doors or cut down their capitalization to comport with the physical value of their plant, and either alternative would disturb the vested right, the right of the mill worker to his grandfather's job or the right of a stockholder to his grandfather's dividends.

The theoretical right of the millions of consumers to commodities at lower prices would not seem a paramount right when opposed by the definite vested rights of labor or of capital.

Coolidge thinks concretely. He takes no chances. His feet are on the ground of a beaten path. He knows his way. In the matter of Senator WHEELER'S prosecution Coolidge would not interfere with the ordinary processes of justice to save a Senator from second prosecution, because the interference would imply a sympathy with the Senator's unsound economic beliefs, and so give an impression that the White House put justice before business. It would violate his creed and bemean his life to do a thing which might be construed as truckling to the disturbers of traffic even by making toward them a generous gesture which guaranteed them justice outside of the courts.

Coolidge has his faith; he lives up to it. He is obeying a mandate.

Those who held opposing views to the President, who held that justice rather than business is our reason for being a country, were appalled at the way Coolidge turned the Federal Trade Commission to his uses of prosperity.

Later on Mr. White said:

The President's mystic faith in the divine ordination of wealth to rule the world and promote civilized progress is evidenced in his opposition to the inheritance tax. He seems to feel rather deeply that interference with the accumulation of fortunes, however great, is wicked perversion of natural law.

For the doctrinaire cult which holds that great fortunes should be disbursed at death, first, to equalize opportunity in a new generation; second, to produce necessary revenue; and, third, to eliminate the danger to organized society from vast sums snowballing the wealth of the community into the few hands, Calvin Coolidge has expressed a rather definite scorn.

I think, Mr. President, that in what I shall say I will not necessarily go as far as did his friend William Allen White in describing his attitude.

In 1924 there was a very important investigation going on by the Tariff Commission with regard to the question of sugar. It is my opinion that President Coolidge used the great power of his office to influence the Tariff Commission, which ought to have been absolutely independent of any interference either from him or from any other source in the world, for the purpose of delaying the report that it was generally understood was going to be made to the President recommending a reduction of the tariff on sugar.

We must remember that at that time there was a campaign on. President Coolidge himself was a candidate of one of the great political parties for reelection. One of the members of the Tariff Commission at that time was David J. Lewis, a man who I presume is personally acquainted with most of the Members of this body. I have known him myself for a great many years, and I exaggerate in no sense the truth when I say that those who know David J. Lewis know that he is a man of the highest honor, a man of great ability, a man of unlimited courage and also unlimited industry. He had been a member of the Tariff Commission since the establishment of that body. His term expired in September during the campaign of 1924.

It was generally known in the discussion that had been going on in the consideration of the sugar question that Mr. Lewis was in favor of making a report to the President without waiting for the campaign to end, without in any way taking into consideration that the partisans of one of the great political parties were demanding that it be delayed until after the election.

It was known also that, so far as Mr. Lewis's personal view was concerned, he was not a protectionist; at least, not a high protectionist, and it was generally believed that he had joined or would join when the report was made in a recommendation to

the President that the tariff on sugar should be reduced; but nowhere, Mr. President, during all of the discussion or all of the debate was it ever even intimated that Mr. Lewis's attitude was going to be determined by his personal views. It was conceded, I think, that his attitude and his official action would be controlled by the investigation that the Tariff Commission should make under the law and the questions submitted to them.

Congress would not be in session until the next December. Mr. Lewis's term of office expired in September. If the President failed to reappoint Mr. Lewis, it would have been a very bad political stroke from a partisan standpoint, as everybody conceded. If he did reappoint him, and reappointed him in good faith, then it would become his duty when Congress convened to send his name to the Senate. He did reappoint Mr. Lewis in September. That being a recess appointment, Mr. Lewis would hold under the law only until the expiration of the next session of Congress, providing his name was not sent to the Senate. When Congress reconvened in December, the President did not send in the name of Mr. Lewis or any other name during that entire session of Congress. So Mr. Lewis's commission of appointment by the President expired on the 4th of March, when Congress adjourned. He appointed his successor, a different man, immediately upon the convening of the Senate in special session and the nomination was confirmed. He obtained the benefit politically, whatever it might be, in his campaign of appointing Mr. Lewis until the campaign was over.

Mr. DILL. Mr. President——

The PRESIDING OFFICER (Mr. LA FOLLETTE in the chair). Does the Senator from Nebraska yield to the Senator from Washington?

Mr. NORRIS. I yield.

Mr. DILL. The Senator from Nebraska the other day, while I was speaking, raised the question regarding the duration of recess appointments. I think the Senator raised the question as to whether when a man was given a recess appointment and then reappointed, but not confirmed, he held his office during the time of the consideration of the confirmation?

Mr. NORRIS. Yes.

Mr. DILL. I have made some little investigation of the subject, and my understanding is that such appointees do hold during the period when the nomination is under investigation.

Mr. NORRIS. I will say to the Senator that that question does not arise in the case of Mr. Lewis.

Mr. DILL. No.

Mr. NORRIS. Because the President never did send his name to the Senate.

Mr. DILL. The other day I had not made an investigation of the matter, but the question was raised and nobody seemed to know about it. My understanding now is that such an appointee continues to hold until the confirmation is acted upon.

Mr. NORRIS. Of course, everybody, except those on the inside, expected that the name of Mr. Lewis was going to be sent to the Senate when Congress reconvened, but it was not. The whole session went by without the President taking any action.

There were some, however, who had different ideas, perhaps, some who were politically close enough to know. I might digress here to say, and I have a great many newspaper clippings here bearing out the statement, when the appointment of Mr. Lewis was made in September, while the campaign was on, the Republican newspapers of the country supporting Mr. Coolidge made great capital out of it, and properly so, I thought. They were able to say that here was a President appointing a man who did not agree with him on the general tariff issue; a man who by his service had shown that he was a good member of the commission, that he had done his duty faithfully as he understood it, and that the President was willing and had shown his willingness by his action again to appoint that man to the commission.

There were some believing as to the rates of duty on sugar that we ought not have any reduction of the tariff, and knowing that Mr. Lewis was perhaps in favor of a reduction of the rates on sugar, who for a moment were shocked at the President because he had reappointed this man. There appeared in the official organ of the Home Market Club of Boston, of which Mr. Marvin, the then chairman of the Tariff Commission, was secretary when originally appointed to the commission, a discussion of the appointment of Mr. Lewis. The journal to which I refer is a high-protectionist organ, which the man who believes in a tariff wall as high as it can be reared would naturally expect to defend the course of anyone who sought to bring about that kind of a tariff and would naturally be expected to condemn anyone who was fighting to get a reasonable tariff or no tariff. The Protectionist of October, 1924, had this to say:

President Coolidge has filled the vacancy in the Tariff Commission which would have existed upon the expiration of the term of David J. Lewis, of Maryland, Democrat, by reappointing Mr. Lewis. This action has caused some surprise, in view of the situation existing in the Tariff Commission which has prevented that body from functioning normally, partly through the instrumentality of Mr. Lewis. But it should not be inferred that the President is unaware of the conditions within the commission or that he will permit them to continue. More than this can not be said at this time without violating confidence, but readers of the Protectionist may rest assured that the Tariff Commission will in due time be pulled out of the morass into which it has fallen and that no one who is looking for executive efficiency in that body will be disappointed.

Mr. President, when the election was over there happened what it was intimated in the article I have just read would happen. When the election was over and Congress reconvened the name of Mr. Lewis was not sent in. He was permitted to go out of office and the name of another man was sent in later and confirmed.

About the time that Mr. Lewis's term expired Commissioner Culbertson, a member of the Tariff Commission and a very close friend of the President, was called to the White House, and, as I understand it, was directed to report to Mr. Lewis that the President was going to reappoint him, but the President had a condition attached to the reappointment. I can not better state that condition to the Senate and to the country than by reading a letter which Mr. Culbertson wrote to Mr. Costigan, another member of the commission, who at that time was in Colorado spending his vacation.

This letter, together with the memorandum which he inclosed, explains the situation entirely and sets forth just what occurred. Mr. Culbertson, whom most of the Senators know, a very able man, who had likewise been on the commission for a good many years, though he is now in the Diplomatic Service, was in the habit of writing memoranda of things that occurred from day to day. He made one in this case; and he wrote to his brother commissioner, who was in Colorado, and inclosed a copy of that memorandum. Now I am going to read the letter. It is on the letterhead of the "United States Tariff Commission, William F. Culbertson, vice chairman," and is dated Washington, September 9, 1924:

MY DEAR COSTIGAN: You will perhaps have seen to-day in the press that Mr. Lewis was reappointed yesterday. I reached Washington Sunday evening and had not been in my office very long Monday morning before I was sent for by the President. The result of my interview is covered by a memorandum, a copy of which I inclose.

When I returned to the office I took the President's suggestions up with Lewis, and later he reached the decision that he would not write the letter of resignation requested by the President. He, however, went to see the President during the afternoon, and I presume he will write you the details of what took place. In general this is what happened—

Before I read the remainder of the letter, I am going to read the memorandum, because it comes in very properly at this point. It is as follows:

Contemporary memorandum of the interview with the President, September 8, 1924:

Shortly after I reached my office this morning—

This is Mr. Culbertson speaking now—

Shortly after I reached my office this morning—about 9.30—I received a request over the telephone to come to the White House to see the President. I went over immediately. The President was reasonably cordial. He began by saying that the subject of the interview was Mr. Lewis's reappointment. Mr. Lewis's term as a member of the Tariff Commission expired yesterday. The President stated that he intended to reappoint Mr. Lewis but that he desired that Mr. Lewis prepare and give to him a letter of resignation as a member of the Tariff Commission. At first I did not fully comprehend the nature of this request.

I spoke of Mr. Lewis's term having already expired. Then the President explained that he wanted Mr. Lewis to submit his resignation under the new commission to be effective in case he (the President) desired at any time in the future to accept it.

The President at this point called in Mr. Forster, one of his secretaries, and instructed him to make out Mr. Lewis's commission of reappointment as a member of the Tariff Commission, effective to-day.

The President then handed me a sheet of White House paper, so that I could take down the tenor of the letter which he wished Mr. Lewis to write. I wrote down the following words: "I hereby resign as a member of the Tariff Commission, to take effect upon your acceptance."

I raised the objection at this point that an unqualified resignation of this kind would imply on the record that Mr. Lewis did not desire to continue as a member of the Tariff Commission. The President replied that this was a matter for Mr. Lewis to decide. In explanation of his request the President said that he desired to be free after the election concerning the position filled by Mr. Lewis. He said that if he were not elected the Democrats might undertake to hold up other appointments which he made during the next session of the Senate, and he implied that he desired to use the reappointment of Mr. Lewis for trading purposes in case of necessity.

I thereupon asked the President whether I could have his assurance that if he were reelected Mr. Lewis would be continued as a member of the Tariff Commission. He said that he could not at this time make any commitments.

We then talked of other matters, and at the end the President asked me to have Mr. Lewis see him during the afternoon, when he said he would give him his commission.

I will read the rest of the letter addressed to Mr. Costigan:

He went into the President's office, and the President had before him the commission. He took up his pen and signed it in Lewis's presence. He then turned to Lewis and asked him whether he had "that letter." Lewis then explained that he did not feel free to furnish the President with the letter which he requested. Lewis said that the President was visibly disturbed and said with a little heat that it did not make any difference anyway; that the position would be held only at the pleasure of the President. Lewis then said to the President that only the two of them knew that the commission was signed, and he suggested that the President was at liberty to destroy the commission. The President, however, did not respond to this suggestion, and Lewis left the President's office with his commission. A little later he was sworn in.

Thus ends another curious chapter in the Tariff Commission's history. It indicates clearly, I think, that there is a line beyond which the President will not go in opposing the principles for which the three of us have stood in the development of the Tariff Commission.

We miss your counsels very much, but I suggest that you stay in the Colorado climate until you are certain that your return here will not bring with a return of your hay fever.

Very cordially yours, CULBERTSON.

Hon. EDWARD P. COSTIGAN,
Palmer Lake, Colo.

Mr. President, I have talked personally with Mr. Lewis, and he corroborates everything that is in that memorandum. This committee, when it is appointed to investigate the Tariff Commission, I suppose will put Mr. Lewis on the stand—I hope it will—and put him under oath, and send for Mr. Culbertson, if you will.

I noticed the other day, Mr. President, that the Senator from Washington [Mr. DILL] put into the RECORD a telegram from the President in which he said in so many words that before he had appointed a certain man to a position he had a certain understanding with him, and that the man had not carried out that understanding, and that therefore he demanded his resignation. I wondered then and I wonder now, Mr. President, how many resignations the President is carrying around in his pocket of men whom he has appointed, who have accepted the conditions which Mr. Lewis refused to accept. To my mind it is an indirect but a very forceful method of influencing the official action of members of commissions and other officials of the Government contrary to their own convictions, and therefore contrary to law.

With a knowledge that the man who gave you your appointment holds your resignation in his hands and can file it at any moment he sees fit, how many men are there, human as men are, who will under all circumstances and under all conditions fail to deviate from the path that they believe to be right, when they know that the man with their resignations in his pocket wants them to take another course?

Mr. President, on this occasion I will not go any further. However, before this question of the investigation of the Tariff Commission is disposed of I do intend to add another chapter which seems to me to demonstrate further, and even to a greater extent than what I have already said, that the President, according to his peculiar idea of his duty and his right to control independent bodies, is, in my judgment, violating the laws of the land. If we are to have that kind of a government, if the Tariff Commission, the Federal Trade Commission, the Interstate Commerce Commission, and the Shipping Board are to be controlled and handled through secret understandings with the man who makes the appointment, then why not abolish them all and let the President be a Mussolini? And why not extend the principle to the courts? Are there any judges now sitting upon the bench who have signed resignations that they have placed in the hands of the President? Is this a common thing? Is this secret understanding that the President himself claims he had with Haney common with other officials of the Government?

These are some of the things that this committee, when it is appointed to investigate the Tariff Commission, will very properly consider.

Mr. DILL. Mr. President——

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from Washington?

Mr. NORRIS. I yield to the Senator.

Mr. DILL. I want to ask the Senator from Nebraska whether he does not think this is a novel way of campaigning; that is, appointing a man to office during a campaign and holding his resignation so that it can be accepted as soon as the campaign is over?

Mr. NORRIS. When I take up this subject again I am going to throw some new light, I think, on the reason for this procedure. When the President asked for this resignation I do not believe that he expected to accept it as soon as the election was over. He at least would not accept it before the election.

Mr. DILL. The memorandum which the Senator read indicated that that was the purpose.

Mr. NORRIS. Yes; but there would be only a short time after the election until he could remove Mr. Lewis from office by simply refusing to send his name to the Senate, and that is what he did. To me the resignation asked for looks more like a club to put fear in the heart of Mr. Lewis.

And thus endeth the first chapter.

ORDER FOR RECESS

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wisconsin [Mr. LENROOT] that the Senate proceed, as in open executive session, to the consideration of Senate Resolution No. 5.

Mr. LENROOT. I withhold the motion for a moment.

Mr. CURTIS. Before the motion is put I should like to submit a unanimous-consent request.

I ask unanimous consent that when the Senate concludes its business to-day it take a recess until 12 o'clock Monday.

The PRESIDING OFFICER. Is there objection?

Mr. MOSES. Mr. President, Monday is Calendar Monday. We have not had the calendar called for some time.

Mr. CURTIS. There is nothing on the calendar, I think, that is of enough consequence to have it considered on Monday.

Mr. MOSES. If that is the case, we can dispose of the calendar in very short order on Monday.

Mr. CURTIS. I submit the request.

Mr. MOSES. I am constrained to object, on account of Calendar Monday.

The PRESIDING OFFICER. Objection is made.

Mr. LENROOT. Mr. President, I move that when the Senate concludes its business to-day it take a recess until 12 o'clock Monday.

The PRESIDING OFFICER. The Senator from Wisconsin moves that when the Senate concludes its business to-day it recess until 12 o'clock on Monday.

The motion was agreed to.

THE WORLD COURT

Mr. JONES of Washington. Mr. President, the other day I gave notice that at the conclusion of the speech of the Senator from New Hampshire [Mr. MOSES] I would wish to submit some remarks. I do not desire to interfere with the executive business, but I wondered whether or not the Senator expects to take all the afternoon in open executive session?

Mr. LENROOT. I will say to the Senator that I understand the speech of the Senator from New Hampshire will occupy probably no more than an hour.

Mr. MOSES. I assure the Senator from Washington that I shall not detain the Senate long.

Mr. JONES of Washington. I merely wish to say to the Senator from Wisconsin that I am not particular whether I have a quorum of the Senate here or not; I shall speak more for the RECORD than anything else. If the Senate can come back into legislative session without interfering with the Senator's executive business before adjourning, so that I can make my address, it will be all right with me.

Mr. LENROOT. I will say to the Senator that later on we will go back to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wisconsin.

The motion was agreed to, and the Senate, in open executive session, resumed the consideration of Senate Resolution 5, providing for adhesion on the part of the United States to the protocol of December 16, 1920, and the adjoined statute for the Permanent Court of International Justice, with reservations.

Mr. MOSES. Mr. President, inasmuch as I have attempted to present a discussion with some degree of continuity, I ask that my colleagues may be good enough to refrain from interrupting me until I have finished, at which time I shall be glad to take on all comers with such ability as I may possess.

Mr. President, the lineage of the protocol which we are considering is not without interest.

It first came to this Chamber, in embryonic form, on Thursday, July 10, 1919, when President Wilson submitted to us the treaty of Versailles, the fourteenth article of which, the same being the fourteenth of the 26 articles which comprise the covenant of the League of Nations, reads as follows:

> The council shall formulate and submit to the members of the league for adoption plans for the establishment of a Permanent Court of International Justice. The court shall be competent to hear and determine any dispute of an international character which the parties thereto submit to it. The court may also give an advisory opinion upon any dispute or question referred to it by the council or by the assembly.

This is the sole authority upon which the so-called World Court rests. I will not delay the Senate with any philological discussion, but it is interesting to observe that the French and English texts differ materially. The latter reads "may give" an advisory opinion. The former reads "donnera," which upon its slenderest translation means "will give." Moreover, this is a form of French verb which is used both juridically and in a military sense, and when thus employed carries with it a mandatory meaning.

The treaty of Versailles came into force January 10, 1920, and at the second meeting of the Council of the League of Nations M. Bourgeois proposed the formation of a committee of legal experts to draft a scheme for the organization of a court as contemplated in article 14 of the league's covenant. This committee was promptly provided for, and on February 13, 1920, the council invited 12 jurists to accept membership. The letter of invitation to these eminent gentlemen—among whom was an American whose great name is now freely invoked in behalf of this protocol—could have left no illusions as to the source of authority from which the committee's action would flow, for it declared that "the court is a most essential part of the organization of the League of Nations."

The sessions of the committee were opened on June 17, a day memorable in the annals of American independence, but on this occasion far otherwise, as I believe; and they closed July 24. At the first regular meeting of the committee Mr. Root endeavored to persuade his colleagues that their work should begin where the labors of the second Hague conference left off; but the committee as a whole was unwilling to accept this view. Its members were not, however, averse to an expression of appreciation of the value of the labors of the first and second Hague conferences, and it adopted and made public a declaration to the effect that "the committee begins its deliberations by rendering in first instance homage to the labors of the peace conferences of The Hague." Thus, Mr. Root was politely handed a few kind words and a glass of water; and though Mr. Root throughout the sessions of the committee battled valiantly to produce a real court to which litigant nations must repair, the children of his thought received scarcely more nourishing treatment at the hands of his colleagues. Whenever Mr. Root made a proposal which moved directly toward the establishment of a real court, the course of his colleagues seemed almost invariably to "accept in principle and to amend in detail."

It is unnecessary to dwell upon each of the successive steps through which the committee passed, but the whole structure of the court, as the committee reported it to the Council of the League of Nations, was so cast that the court was given compulsory jurisdiction within a limited and specifically confined class of cases. To this extent it was a real World Court, and a definite provision was made for an international conference with continuing powers for the codification and advancement of international law.

THEY WORKED FOR THE LEAGUE

At no time, however, was there any misapprehension on the part of the committee of jurists that they were working under, if not for, the League of Nations. I have already quoted from the letter of invitation which described the court as "a most essential part of the organization of the league." At the first gathering of the committee and prior to its formal opening session this was still further emphasized when M. Bourgeois described the league and the court as complementary to one another and spoke of "the close solidarity which exists and which will always exist to an increasing degree between their two actions." M. De Lapradelle, the French member of the committee and its rapporteur, similarly stated that "the new court, being the judicial organ of the League of Nations, can only be created within this league"; and Mr. Root himself was constrained to shape his course in accordance with these views. At one point in the proceedings he declared that the court would have to be "articulated" with the "political organization of the league"; and on another occasion he said that he approached the problem of the court with two fundamental ideas, the second of which was that "the court should form part of the system of the League of Nations." And upon another occasion M. Bourgeois said that it was necessary for the court to have the league and it was necessary for the league to have the court, and that "the legal phase of the league will be as dependent upon the political phase as the political phase is upon the legal phase."

The proposal of the committee of jurists, containing as it did the active structure for a real World Court, was presented on August 3, 1920, to the secretary general of the League of Nations, who at once forwarded copies of the proposal to members of the league with a request for suggestions. These suggestions in turn were referred to M. Bourgeois for a report to the council.

THE COMMITTEE SET THE SNARE

The council adopted certain modifications in the committee's plan as recommended by M. Bourgeois. The effect was to eliminate even the limited compulsory jurisdiction recommended by the committee of jurists and changing the essential judicial character of the court to that of a mere tribunal of arbitration. From the council the report of the committee thus modified passed to the Assembly of the League of Nations, where a committee of 37 members, under the chairmanship again of M. Bourgeois, who seems to have been ubiquitous in all the proceedings, fell upon it; and further modifications were made, following which the draft was adopted in the form in which it now comes to us. That the framers of the so-called court had constantly before them the hope of inducing the United States into adherence to it is plain from the beginning of the transaction. The committee itself set the snare by providing that the court "should be open of right to the States mentioned in the annex to the covenant," this being the position of the United States; and the committee of jurists explained this special privilege to us as "owing to exceptional circumstances which everyone believes to be only temporary" and under which the United States had not joined the league.

And further, Mr. President, when the report of the committee of jurists was presented to the League of Nations Mr. Hagerup, of Norway, frankly declared to his colleagues in the Assembly of the League of Nations on December 13, 1920, that "It [the court] is the first step leading to the entrance of the United States into the league." So that the distinguished Senator from Maryland is not without authority for his somewhat blazing indiscretion the other day.

Mr. BRUCE. Mr. President, in view of that statement, does the Senator still persist in asking that he be not interrupted?

Mr. MOSES. I think I must.

The PRESIDING OFFICER. The Senator from New Hampshire declines to yield.

Mr. MOSES. And here I discern, Mr. President, what seems to me to be the central thought of the proponents of this court as it stands in pressing for our adherence, namely, that it constitutes the first step in the entrance of the United States into the League of Nations.

At any rate, sir, our adherence to this protocol can be of no advantage to us so far as access to the court is concerned. We may to-day resort to it upon the conditions set forth in the statute and upon no others; and in so doing we shall incur no obligations under the covenant of the League of Nations such as attach to league members and other nonmember states who, differing from us, are not mentioned in the annex to the covenant. Before leaving the aspect of the problem presented by the modifications in the committee plan as made by the Council and Assembly of the League of Nations it may be worth noting that the modification which deprived the court of its significance as a real tribunal of justice was of English origin and was argued for and was presented by Lord Balfour. Upon this point division arose between the great and small powers represented in the league; and a compromise was finally reached to the effect that the principle of obligatory jurisdiction should be embodied in the statute of the court, but that it should not be binding upon signatories to the statute. Accordingly, two protocols of signature were prepared, one for the statute of the court and a special protocol for obligatory jurisdiction which is without effect unless signed separately and is limited in its operation to its signatories. Herein alone the so-called court is worthy of its designation and it has been given this authority without conditions by one nation only—the great Republic of Haiti. All

others have adhered to the optional clause under time limitations and under conditions of reciprocity. Of the great powers, France alone has even signed the optional clause; and it is only for a period of 15 years and upon the condition of reciprocity and other stipulations which apparently invalidate the signature.

IT IS NOT A WORLD COURT

Great Britain has not signed, nor has Japan, nor has any nation possessing any considerable armament on land or sea. In Europe the optional clause is operative as between only 12 states, each of whom is negligible in a military sense. In Latin America it is possibly operative among 6 nations; in North America it is inoperative, as it is also inoperative in Asia and Africa. No disputes have come to the court under the optional clause, and it requires only scanty knowledge of geography and of economic and of military resources to recognize that the nations signatory to this clause adhered to it under the plain knowledge that they had nothing to lose.

In the progress of the discussion here, Mr. President, we have been repeatedly assured—and even more frequently I have read in newspapers which are devoted to the League of Nations—that some 48 countries belong to this court. I regard this as a considerable exaggeration, to say the least. The number of countries which have actually ratified this protocol is 36. And of these there are 5—namely, Australia, Canada, India, New Zealand, and South Africa—which are not really independent states at all. There are some 60 independent states in the world, so that this court accordingly can not be much more than half of a world court at the best calculation. For example, the Irish Free State does not seem to belong to the court at all. It is not listed among the members of the court in the court's report and is not listed as having at any time even signed the protocol. Among the nations of this continent there are 15 which either have never signed at all, or else after signing have not ratified the protocol. It does not seem, Mr. President, that there is any general tumultuous movement on this side of the ocean to assume membership in this court.

Nevertheless, Mr. President, while the statute of the so-called World Court and the method pursued by the various signatories to the optional clause of this protocol may seem to limit the effect of the court's action upon the United States—which effect we may further limit by appropriate reservations—there still remains a fundamental and detrimental characteristic of the tribunal which may be found in its organic law, namely, the covenant of the League of Nations. The covenant under its fourteenth article empowers the court to "give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly" of the League of Nations. This, Mr. President, means any case and every question; and it is not limited to a controversy submitted by the parties thereto.

It is not necessary further to discuss the difference between the French and English texts of the treaty of Versailles other than to repeat that the form of the French verb which is employed makes it the plain duty of the court to render opinions in such cases. Under this authority, as I see it, there is no question affecting the relations of the United States and other powers concerning which the court may not be required to render an advisory opinion. There certainly is no legal obstacle to prevent the Council of the League of Nations from submitting to the court the question of the competence of any of our debtors to pay the money which they owe us, or from asking the court to render an opinion on the subject of immigration or upon the question of our tariffs; and inasmuch as the question of international waterways is expressly dealt with in the treaty of Versailles and the court has special jurisdiction over matters rising out of treaties which have been lodged with the League of Nations, there is no legal obstacle whatever to bringing before the court the question of tolls in the Panama Canal.

THE DANGER TO THE UNITED STATES

In point of fact, Mr. President, some of these questions which I have enumerated as possible to be brought before the court to our detriment have lain in the minds of foreign statesmen as wholly probable. For example, last September a former minister of finance of Italy, Signor Paratore, writing in the Giornale d'Italia, said with reference to the Italian debt to us:

> If our standpoint be not accepted on the other side of the ocean, we may bring the case before the Permanent Court of International Justice.

And as for the question of immigration, it may be worth while to quote the language actually used by the Japanese Government in its contention that certain of our laws are violations of treaties and are, therefore, international subjects suitable for international settlement.

On June 4, 1913, the Japanese Government addressed a formal note to the Government of the United States regarding the land law of the State of California, and in it said:

> The measure is internationally racially discriminatory, and looking at the terms of the treaty between our two countries they (the Japanese Government) are equally well convinced that the act in question is contrary to the law and spirit of that compact.

And as recently as May 31, 1924, the Japanese Government addressed another note to our Government saying that the immigration law of 1924 is "in disregard of international understanding." It therefore follows, Mr. President, that if the Japanese should carry the question of our treatment of Japanese immigrants to the Council of the League of Nations the council could in turn send the legal international contentions involved to the court. And it must be remembered that the court in its decision regarding the Tunisian question has already held that questions which were originally domestic in their nature may become international through appeals under treaties. Under such a circumstance we would find ourselves, if we became members of this court, sitting in a judicial body which could proceed to handle a domestic question which is purely our own upon the theory of its having become international. The decision in such an event I predict would be against us, and this adverse decision would be fortified by our own presence in the usurping body which had assumed to deal with the subject.

It is no adequate response to these suggestions, Mr. President, to say these things will not happen. On the part of those who hold as I do with reference to this protocol it is sufficient for us to point out that these things may happen.

In considering the question of the advisory opinions to be rendered by the so-called court, certain facts stand out with prominence as we examine the history of this court's development. The original American draft for the covenant of the League of Nations contained not even an allusion to the creation of any court. The Hague Tribunal of Arbitration was in existence and established at our instance. For us and, as we thought, for all the world, it was sufficient. The British view, however, was contrary. In their draft for the covenant of the League of Nations an explicit provision was made for a new court; and in the end their view prevailed. It must be noted, however, that in the first finished draft of the covenant which was adopted by the Peace Conference on February 14, 1919, its fourteenth article provided competency for the court "to hear and determine any matter which the parties recognize as suitable for submission to it for arbitration." Then, Mr. President, "arbitration" and "judicial sentiment" were separated by none of the finespun distinctions now thrown out by those who seek to show that the Geneva court differs in essential quality from The Hague tribunal. The fact is that the real character of the new court was not brought to light until the final draft of the covenant was adopted by the Peace Conference on April 28, 1919, and a further grant of power to the court was given by its authority to render "an advisory opinion upon any dispute or question referred to it by the council or by the assembly."

THE APOLOGIST FOR THE LEAGUE

Here, Mr. President, the court stands forth as what it is, a league court—not differing from the old court in its procedure or in its jurisdiction or in the judicial conclusions it will arrive at; but organized on plans formulated by the League of Nations and existing to serve the league as lawyer and apologist.

For example, if the league contemplates a line of action it may consult the court. If the "advisory opinion" of the court runs along with the league's purposes, its conclusion may be hailed by the league as the assembled judicial conscience of the world, and the league may then proceed upon asserted legal-moral ground to carry out its preconceived policy. If, however, the advisory opinion of the court should run counter to the league's purposes it may then be held as purely "advisory," and may be disregarded. In other words, the court as constituted is merely a cog in the machine for the aggrandizement of the League of Nations; and the United States, which has twice repudiated the league, is now asked to adhere to a court which exists as a buttress in the league's formidable lines established either for defense or aggression.

American opinion has always stood in opposition to this function of the proposed court; and Mr. Root's conception of the court, as expressed by him during the proceedings of the advisory committee of jurists, was that its judges should be "judicial officers and nothing else." At another time, Mr. Root declared plainly that he was "opposed to the court's having the right to give an advisory opinion with reference to an existing dispute." Thus far, it may be remarked in passing, Mr. President, the court has rendered no advisory opinion which did not deal with an existing dispute. Mr. Root further remarked that, in his opinion, the granting of this function to the court was a "violation of all judicial principles."

JOHN BASSETT MOORE'S OPINION

Later, when the court came to be organized and Mr. John Bassett Moore found himself one of its judges, he presented a memorandum on the subject of advisory opinions in connection with the framing of the rules under which the court should function; and declared that the true province of a court is to "decide" and to "end" disputes. He argued that the advisory function may be appropriately exercised only by law officers of the states affected and "duly established for the purpose." He further declared that to impose upon the court the duty of giving advice, which could be freely rejected, "would reduce the court to a position inferior to that of a tribunal of conciliation." It was his opinion that it is "hardly compatible with the design of this court that it should be obliged to render on request opinions lacking any element of authority or of finality."

Mr. Moore's memorandum urged that the—

moral authority of judicial decisions is derived chiefly from the fact that they have the authority of law and legally bind the parties to the dispute. If deprived of this effect, their so-called moral authority would promptly vanish—

And he added—

the giving of advisory opinions, either on actual disputes or on theoretical questions, is not an appropriate function of a court of justice.

Mr. Moore's contention did not prevail, and he found himself in the ranks of the vanquished with Mr. Wilson and Mr. Root.

In point of fact, Mr. President, the court has functioned much more largely in an advisory capacity than as a judicial body, and its record fully entitles it to the appellation which the senior Senator from Idaho has given to it as a "department of justice for the League of Nations."

The court has handed down 18 decisions, embracing, however, only 16 questions, because in two instances a single issue was affected by two decisions. Of these decisions, 12 came in the form of advisory opinions, and each of these arose out of disputes on the Continent of Europe or in Mediterranean countries or in the near eastern protectorates or mandatories exercised by European powers. Fourteen of them arose out of disputes regarding the peace settlements which the United States refused to ratify, and one of them, the Mosul case, grew out of a treaty to which we were not even signatory. Only four of them were brought to a conclusion by authoritative judgment of the court and the remainder were sent back by the court to the League of Nations for the latter to dispose of in its own way.

WHAT THE COURT HAS DONE

Under advisory opinions, the court has dealt with the interpretation of article 389 of the treaty of Versailles; with article 396 of the same instrument; with a dispute regarding the character of the treaty of Dorpat between the Russian Soviet Government and Finland; with article 12 of the treaty executed by Poland in pursuance of article 93 of the Versailles treaty; with article 4 of the Germano-Polish treaty; with articles 81 and 87 of the treaty of Versailles; with certain provisions established by the treaty of London in 1913; with a controversy arising from article 2 of the Lausanne convention of January 30, 1923; with article 104 of the treaty of Versailles; with article 3 of the definitive treaty of Lausanne; with article 380 of the treaty of Versailles; with an individual dispute arising from a contract entered into by a Greek subject in 1914 with the then existing Government of Turkey; with article 179 of the treaty of Neuilly; with various articles of the Germano-Polish convention with regard to Upper Silesia; and with the Mosul boundary question.

The court was not permitted to deal with the Greco-Italian dispute involving the occupation of Corfu, nor with any of the vexed questions arising from the relations of the Government of Great Britain to that of His Majesty the King of Egypt. Indeed, there is no manner in which Egypt, however despoiled or oppressed, can ever bring her case before the so-called World Court except through the intermediary of the British Government; and it is not without significance, Mr. President, that no case involving the action of a nation armed and willing to defend itself has been brought before the court, unless we exclude the Mosul controversy, the end of which is not yet.

Therefore, judging the future of the court by its past, we shall, if we adhere to this protocol in its present form, find ourselves spending altogether too much time dealing with peace settlements to which we are not a party and dealing with them, too, through advisory opinions rendered to a body which the Senate has twice rejected and which the country twice, and by phenomenal majorities, has refused to join. In 1919 and in 1920 we disentangled ourselves from the outrageous peace settlements contained in the treaty of Versailles and its cognate instruments; yet the court to which we are now asked to adhere spends the greater part of its energies in advising the League of Nations how to carry out purposes which we repudiated six years ago.

WHEN THE COURT COMES TO AMERICA

There is, however, nothing in the structure of the functions of the court as it now exists to assure that most of its time, or indeed any of its time, shall continue to be devoted to European affairs. The truth is that at any minute the court may find its attention turned to a cis-Atlantic situation, because there is no lack of legal power on the part of the League of Nations to send to the court a demand for an advisory opinion on matters touching the vital domestic policies of the United States, and this whether we wish it or not. This power of the league is ably set forth and amply proven in a discussion upon the "History of the peace conference" published by the British Institute for International Affairs in Volume I, chapter 6, part 3.

It is therein further shown what steps may be taken under the covenant of the League of Nations to bring this about, and they are:

First. Under article 11 of the covenant of the League of Nations any member of the league is free to bring to the council of the league any dispute which may arise with another state, and it matters not whether this other state is or is not a member of the league. In point of fact, the language of this article is much more comprehensive than this summary states it; because "any war or threat of war, whether immediately affecting any of the members of the league or not," is declared "a matter of concern to the whole league"; and the league is not only authorized but directed to take "any action that may be deemed wise and effectual." In this same article it is "declared to be the friendly right of each member of the league to bring to the attention of the assembly or of the council any circumstances whatever affecting international relations which threaten to disturb international peace or the good understanding between nations upon which peace depends."

Second. Having this case before the council, the complaining nation is free to argue that the dispute falls within the definition of justiciable questions as set forth in article 13 of the covenant of the League of Nations.

Third. The decision on this point is, of course, in the hands of the council, and, equally of course, it constitutes a "matter of procedure" and therefore is to be determined by a majority vote.

Fourth. With such a majority vote the Council of the League of Nations may send the question to the so-called court for an advisory opinion, wholly regardless of the wish of either of the contestants.

Under this procedure the way is readily open to Japan, for instance, to take to the League of Nations and through the league to the so-called World Court its grievances growing out of statutes enacted in Western States which the Japanese may claim to be in contravention of our treaties with them. Since treaties are indubitably international documents, this question raised in this way is international in its character and the court necessarily would take cognizance of it. In any event, Japan could readily claim that these statutes threaten to disturb the good understanding between nations upon which peace depends, and therefore would have a firm foothold from which to approach the League of Nations and its court. Should these circumstances arise and inasmuch as all decisions of the court are reached by a majority vote, and while it may be advisable for the United States to stake its all in such a controversy as I have outlined upon the robust qualities of John Bassett Moore, than whom there is no abler jurisconsult in all the world, I fear that his colleagues upon this bench, ranging from Señor Don Altamira, of Spain, down to Chung-Hui Wang, of China, most of whom represent our debtor nations whose affection for us is of dubious quality, will apply the golden rule to the contention of Japan and will deal with her as they would like to be dealt with in the event of a controversy with the United States.

PRESIDENT HARDING'S FORESIGHT

That this contingency and others perhaps more important lay in the mind of President Harding when he submitted this protocol to us on February 24, 1923, can not be doubted. In his letter to the Senate under that date he took—

note of the objection of our adherence because of the court's organization under the auspices of the League of Nations and its relation thereto—

and transmitted a letter from the Secretary of State which affected to indicate—

how with certain reservations we may fully adhere and participate and remain wholly free from any legal relation to the league or assumption of obligation under the covenant of the league.

Mr. Hughes in his letter pointed out "one fundamental objection to adherence on the part of the United States to the protocol and acceptance of the statute of the court in its present form," namely, that only members of the League of Nations are entitled to a voice in the election of judges. Mr. Hughes recognized "the validity of this objection" and proposed a reservation to obviate it. In all he proposed four reservations, and in this form the project lay before the Senate at the final adjournment of the Sixty-seventh Congress, March 4, 1923.

President Harding, speaking in New York on the 24th of April following, discussed the question of the court, admitting that it is "not all that some advocates of the court plan would have it to be," declaring anew that the United States had "definitely and decisively put aside all thought" of entering the League of Nations and—

that it does not propose to enter now by the side door or the back door or the cellar door. * * * It is not for us. The Senate has so declared, the Executive has so declared, the people themselves have so declared. Nothing could be stamped more decisively with finality."

President Harding returned to the subject twice during his last and ill-fated trip to Alaska. At St. Louis on the evening of June 21 he devoted an entire speech to a discussion of the court and advocated our adherence to it with two conditions which he said—

may be considered indispensable—

First, that the tribunal be so constituted as to appear and to be, in theory and in practice, in form and in substance beyond the shadow of a doubt, a world court and not a league court.

Second, that the United States shall occupy a plane of perfect equality with every other power.

And again he said with an emphasis which drew applause, "The league is not for us."

President Harding's successor did not neglect his inheritance of this protocol; and in his annual message delivered December 6, 1923, he commended the court—

to the favorable consideration of the Senate with the proposed reservations clearly indicating our refusal to adhere to the League of Nations.

He described the court as—

merely a convenient instrument of adjustment to which we could go but to which we could not be brought.

Similarly, in his annual message read before Congress on December 3, 1924, he spoke again of "the conditions stated in the recommendation" previously made and added the further condition—

that our country shall not be bound by advisory opinions which may be rendered by the court upon questions which we have not voluntarily submitted for its judgment.

This court—

He concluded—

would provide a practical and convenient tribunal to which we could go voluntarily, but to which we could not be summoned.

And again, similarly, in his annual message to this Congress read here December 8, 1925, he enumerated the conditions under which we should grant our adherence to the court and argued in support of them.

THIS COURT IS UNNECESSARY

I do these two Presidents the honor of taking them at their word. I agree that the court which we are considering constitutes little more than a gesture. In this respect, Mr. President, I go further. I believe this court, wholly aside from its structural and functional defects, to be an unnecessary and somewhat expensive piece of machinery. Except for its permanent personnel and for the regularity of its times of meeting it presents no feature essentially different from the Permanent Court of Arbitration already functioning at The Hague. On the other hand, its predominant function of giving advisory opinions, as shown by its proceedings thus far, and its intimate and controlling connection with the League of Nations present to me insuperable obstacles to its acceptance in its present form. Nor are these obstacles sufficiently overcome through the reservations which accompanied the protocol when it came to us or which have since been offered. Even with them this court remains, to use the language of President Harding, a "league court and not a world court."

I was one of those, Mr. President, who voted to report from the Committee on Foreign Relations the resolution numbered 234 in the Sixty-eighth Congress; and I had something to do with the conferences which preceded and which produced that report. The intention of those of us who then cooperated was—and my intention is now—to secure "the establishment of such a court intended to include all the world." In the examination which we then had of the court as proposed to us we found—

First. That the court owes its origin and its jurisdiction to article 14 of the covenant of the League of Nations.

Second. That the protocol now before us was framed by the League of Nations and that the secretariat of the League of Nations is its custodian.

Third. That the protocol expressly proclaims itself to be a contract between "members of the league only"; that none but members of the League of Nations have signed it, and that none are eligible to sign it except members of the League of Nations and states mentioned in the annex to the covenant of the League of Nations.

Fourth. That nominations for judges of the court may be made only by the national groups at The Hague which belong "to the states mentioned in the annex to the covenant and of the states which shall have joined the league subsequently." In this connection it will be recalled that the national group of the United States appointed under The Hague convention of 1907 was invited by the secretary general of the League of Nations to make nominations for this proposed court. On that occasion the members of the group declined upon the ground that the invitation was for them to perform functions under a treaty to which the United States was not a party and in respect of which they had no authority. In 1923, however, upon the express wish of the Secretary of State, this position was reversed and our national group under The Hague convention forwarded to the League of Nations nominations to fill the vacancy created by the death of Judge Barbosa, of Brazil. I will not stop now, Mr. President, to inquire whether this participation of our national group at The Hague in a function provided by a treaty to which we are not a party infringes the rights of the Senate or impairs the integrity of conventions generally, but the suggestion is worth pursuing.

Fifth. That the administration of the court, the fixing of its salaries and pensions, the payment of its expenses, and the determining of the conditions under which the court shall be open to parties other than members of the League of Nations are matters which are wholly in the control of the League of Nations.

Sixth. That the advisory functions of the court are exercised solely at the instance of the League of Nations, thus indicating the close and peculiar relation of the court to the league and affording for the league in its own court an apologist for the league's actions.

Seventh. That the organic law of the court, wholly regardless of the body of precedents which may in time be set up, is the covenant of the League of Nations, this being the court's primary source of authority. Under the terms of this organic law for the court all members of the League of Nations have solemnly undertaken the abrogation of all stipulations in existing treaties inconsistent with the covenant and have agreed not to enter into treaties inconsistent with it. In other words, Mr. President, the standard yardstick for the measurement of all treaties to be entered into by members of the League of Nations is the covenant of the League of Nations, which covenant is the fundamental law of the proposed court.

Eighth. That the personnel of the court, being selected by the League of Nations and for a definite term of years, is, upon the expiration of such term, wholly at the mercy of whatever whim may actuate the League of Nations for the time being. And in this connection we should not lose sight of the fact that individual judges may be dismissed from the court through action of their colleagues, which action is wholly open to the possibility of being prompted by the League of Nations.

Under these circumstances, Mr. President, it was our intention in May, 1924, and it is my intention now, to pursue the course designed, as one member of the Committee on Foreign Relations graphically expressed it—

to cut the umbilical cord into which so many strands had been woven to connect the court with the League of Nations.

This figure of speech, sir, is not strained. A court which has no origin save under an article of the covenant of the League of Nations; a court whose preliminaries were supervised by a committee of jurists drawing their power from a fiat of the Council of the League of Nations; a court which functions under a statute which has been overhauled if not man-handled by both the Council and Assembly of the League of Nations; a court whose judges are elected by the League of Nations; a court whose judges may be completely changed periodically by vote of the League of Nations; a court whose

judges are paid by the League of Nations; a court whose judges will be pensioned as the League of Nations may determine; a court which spends two-thirds of its time with League of Nations' problems submitted to it only by the League of Nations—such a court conceived, nourished, and led by the League of Nations can not in truth be deemed a world court at all. Such a court stands forth solely as a league court. To such a court we can not adhere unless we are willing to discard the first of President Harding's indispensable conditions. As for the second of the indispensables set forth by President Harding it suffices only to point out in the language of the report of May 22, 1924, that when we come to take part in the election of judges under this protocol and cast our votes from the outer precincts of the annex we will cast 1 vote in the council and 1 vote in the assembly; while at the same time we shall see seven parts of the British Empire sitting as full members of the league and casting 7 votes in the assembly and 1 in the council—a disparity which completely vitiates the assertion of President Harding that we must enter this court in such wise "that the United States shall occupy a plane of perfect equality with every other power."

THE FUTURE DISPARITY AGAINST US

This disparity, Mr. President, will probably run increasingly against us. I observe from the proceedings of the League of Nations at Geneva that the British Empire is training up still other "self-governing" parts which will doubless in due time be presented as worthy of membership and voting power in the Assembly of the League of Nations. The "registry of treaties" published by the League of Nations shows that international understandings are now signed not only by Great Britain and India and the Irish Free State and Canada and South Africa and Australia and New Zealand, but also from time to time by such noble and outstanding independent nations as Iraq and Southern Rhodesia and the Federated Malay States and Tanganyika. Any one of these novel offsprings of the British Empire can, of course, be admitted any time to the Assembly of the League of Nations without any necessity of consulting the United States, and we will then see the British Empire with 11 or 12 votes against our 1 in the assembly.

The reservations before us are inadequate to provide either of the Harding indispensables. This has been my opinion from the first, Mr. President, but with advancing years I find myself increasingly distrustful of my own unaided conclusions. Accordingly, I have taken counsel with men who completely correspond to the definition of "jurisconsults of recognized competence in international law," as set down in the statute of this court. Their opinion coincides with mine: That the reservations now drafted are insufficient for the purpose in mind.

Far better for this purpose, Mr. President, are the provisions contained in the resolution of ratification submitted in December, 1923, by the senior Senator from Wisconsin. Better even than these are the proposals contained in the resolution offered by the late Senator Lodge of Massachusetts; and best of all are the proposals contained in the resolution reported from the Committee on Foreign Relations in May, 1924.

Accordingly, Mr. President, there rests in my mind an irreducible minimum of reservation and amendment through which to bring about the adherence of the United States to the so-called court.

First. To provide so that future revisions of the statute of the court shall be brought about not by the league but by independent general international conferences such as Mr. Root struggled for in the committee of jurists.

Second. To provide that the court shall no longer be elected by the League of Nations but shall be chosen as well as nominated by the national groups of the existing Permanent Court of Arbitration at The Hague.

Third. That the pay, pensions, and expenses of the court shall be met not by contributions to the general treasury of the league, thence to be allocated as the league sees fit, but through the permanent administrative council or the international bureau of the Permanent Court of Arbitration at The Hague—bodies still existent and still capable of functioning and open to no implication that they are attempting to carry forward the ambitions of the League of Nations to become a supergovernment of the world.

Fourth. To provide, not as now proposed that the advisory opinions rendered by the court to the League of Nations shall not be binding—as they are not in any real sense—but to provide absolutely that such opinions shall not be rendered at all.

I am not affected, sir, by the argument that none of these proposals which I have outlined can be made use of because the nations now signatory to the protocol will not agree to them. These nations have never had the question put to them. It is my opinion that the nations of the Old World, regardless of Locarnos achieved or projected, still find themselves in a muddle from which they can not be extricated by their own efforts; a muddle which arises from the treaty of Versailles, the provisions of which were cunningly contrived to bring us into Old World controversies in the rôle of an umpire, a rôle which I indubitably believe would now be thrust upon us if we shall adhere to this court in its present form.

It is my opinion further that the statesmen of the Old World look upon our adherence to this court as a step, and a long step, toward membership in the League of Nations, our abstention from which they have already called "only temporary." It is my opinion that we may impose whatever conditions we will upon entering this court and that Old World statesmen will "run for luck" in the hope finally to enmesh us. At any rate, Mr. President, an attempt at what I have suggested may easily be made. At every capital we have a diplomatic representative, who is, no doubt, alert, energetic, and capable. A circular instruction dispatched from the Department of State will reach each of these representatives almost overnight. Another day will suffice for submitting a note verbale at each foreign chancellery, and but little time would be lost in receiving their replies. If they should refuse, we have lost nothing. If they accede, we shall have saved our independence.

In any event, Mr. President, the vote upon this measure will come in due season. I shall not seek to delay it. Though differing from the Vice President with regard to the conduct of debate in this Chamber, I am not an offender who has sought to exercise license under rules which guarantee liberty. When this vote is taken, I shall vote my convictions; and my convictions upon the entire subject of our foreign relations are deep and sincere and abiding to the extent that no price is too great to pay for standing by them. I will not cast my vote under any circumstances for any measure which in any degree makes or tends to make the United States in any sense a party to the odious bargains which stuff the treaty of Versailles—an instrument which we have twice rejected in this Chamber and which the people, in a great and solemn referendum and in an election equally great and more joyous, have twice repudiated; an instrument which this court of the League of Nations spends most of its time trying to interpret.

Mr. LENROOT. Mr. President, before the Senator yields the floor, I desire to ask him a question.

The PRESIDING OFFICER. Does the Senator from New Hampshire yield to the Senator from Wisconsin?

Mr. MOSES. Yes.

Mr. LENROOT. The Senator has repeatedly made the statement that the council might ask the court for advisory opinions upon questions to which the United States is a party. Will not the Senator complete the statement by also stating that the court has held that if such request was made it had no jurisdiction to render any such advisory opinion without the consent of the United States, we not being a member of the League of Nations?

Mr. MOSES. Four members of the court held to the contrary, however, and the opinion as expressed by the Council of the League of Nations was that those four were right and the other seven wrong.

Mr. LENROOT. I am asking about the doctrine of the court.

Mr. MOSES. I agree that the court, by 7 to 4, has held that; but I am unwilling to commit the fortunes of the United States to the caprices of seven men, two of whom may change their opinions.

Mr. LENROOT. But the Senator did make the statement and would have the inference drawn that the court did have jurisdiction to render an advisory opinion, whereas it has itself held that it has not.

Mr. MOSES. And I maintain still that, in spite of the decision in the Eastern Karelia case, to which I assume the Senator from Wisconsin refers, the Council of the League of Nations is still free to send to the court any question which it chooses to send there, regardless of the parties thereto, and is free to exert its pressure upon the members of the court to render an opinion along the line of its desires.

Mr. LENROOT. Why, of course it is, because the court is independent of the council and the council is independent of the court in that respect.

Another question: Does the Senator really think that the British Foreign Office controls the vote of Ireland in the League of Nations?

Mr. MOSES. I do not; but as for the other five I would be willing to gamble something with the Senator that it does.

Mr. HEFLIN. Mr. President, I should like to ask the Senator from New Hampshire one question.

The PRESIDING OFFICER. Does the Senator from New Hampshire yield to the Senator from Alabama?

Mr. MOSES. Yes.

Mr. HEFLIN. I understood the Senator to say that the Japanese immigration question could be considered by the World Court.

Mr. MOSES. I made that assertion. I believe it.

Mr. HEFLIN. Does the Senator think it could consider any question that affects our interests unless this country should consent to it?

Mr. MOSES. As it now stands?

Mr. HEFLIN. Yes.

Mr. MOSES. Absolutely. I think it could consider any question and any case, regardless of us, as the matter now stands. Of course, we may make an effective reservation against that sort of thing.

Mr. HEFLIN. I do not agree with the Senator on that at all.

Mr. MOSES. It is difference of opinion, of course, that produces debate in the Senate.

Mr. HEFLIN. I do not think it could consider any question that affects the United States unless the United States specifically and directly consents for it to do so.

Mr. MOSES. I doubt if even the Senator from Wisconsin [Mr. LENROOT] will go that far. The Senator from Wisconsin admits that the council may send it to the court.

Mr. LENROOT. It may send it to the court, but the court as now constituted would refuse to render any such opinion.

Mr. MOSES. No; I do not agree that the court as now constituted would refuse to do so. I say the court has once refused to render such an opinion. I have seen the Senate of the United States on two successive days reverse itself; and it is much more easy for a controlling body like the League of Nations to bring pressure upon seven men in a court than it is for even the most eloquent arguments to affect the Senate.

Mr. LENROOT. The Senator from New Hampshire is too familiar with the Senate to undertake to cite whatever the Senate does as a precedent for any other body doing a similar thing.

Mr. FRAZIER. Mr. President, I send to the desk a proposed reservation on the subject of the World Court, and ask that it be read.

The PRESIDING OFFICER. Without objection, the reservation will be read.

The proposed reservation was read and ordered to lie on the table, as follows:

Mr. FRAZIER offers the following, intended to be proposed as reservations to the resolution of adhesion on the part of the United States to the protocol of signature of the statute for the Permanent Court of International Justice:

"Whereas there is now a universal cry from the hearts of all humane people for something that will assure future peace, and, in considering the United States becoming signatory to the Permanent Court of International Justice, our constituents look to us that we leave no leaf unturned now that may contribute to that end, consistent with our country's future good; and

"Whereas the Senators, with the statutes of the Permanent Court of International Justice and other voluminous matter bearing upon the subject at their command, honestly differ so widely even as to the probable results of our becoming a signatory thereto, it behooves us to place every honorable safeguard against any such calamity as some Senators foresee; and

"Whereas our duty to other nations and the benefits which will mainly accrue to them is the principal reason advanced by its proponents for our becoming signatories, it being generally admitted that our doing so can not entail any injury to other nations, but may be injurious to us; and

"Whereas the other reason advanced by the proponents is the possibility of universal disarmament upon land and sea, and the great benefits—financial and otherwise—that would surely flow therefrom, without their making any due consideration or proper allowance for the almost insuperable difficulties which prevent that accomplishment, and which, as admitted by its most ardent proponents who have studied the matter, will require many years; and

"Whereas it seems that no assurance is possible that the conduct of the Permanent Court of International Justice will meet with the approval of the people of the United States, nevertheless it is practicable to insure them against physical damage, from any of the great dangers which some of its opponents have pictured, by making our signature dependent upon the establishment, under jurisdiction of the League of Nations, of an international police of the seas by a small, armed police force, and the destruction of all other armed vessels upon, beneath, or above the seas, which, unlike disarmament on land, can be done at once, as the seas are international highways, and reserving to the United States the right to withdraw from the court, as well as that of any nation to withdraw from the jurisdiction of the police of the seas, which, in that case, would resolve itself into a free-for-all race by all nations to regain their navies, an unlikely procedure but one which the United States would not be the last to accomplish; and

"Whereas it seems that with such a provision attached to Senate Resolution 5, Sixty-ninth Congress, special session, introduced by the Senator from Virginia, all objections thereto might be withdrawn and the measure perhaps receive the unanimous support of the Senate;

"Now, therefore, the following is intended to be offered as a reservation to the resolution of adhesion on the part of the United States to the protocol of signature of the statute for the Permanent Court of International Justice:

"1. The signature and the adherence of the United States to the statute of the Permanent Court of International Justice is conditioned and dependent upon the establishment under direction of the League of Nations of an international police of the seas and the destruction of all armed vessels for use upon, beneath, or above the seas, except such small vessels as are needed for police purposes by the international police of the seas.

"2. That the adherence of the United States to the Permanent Court of International Justice is conditioned upon the affairs of said court and said international police of the seas being conducted in a manner satisfactory to the Congress of the United States; and should the affairs of said court or said international police of the seas be conducted unsatisfactorily to the said Congress, then and in that event the United States may at any time withdraw from such court or from the international police of the seas, or both; and if the United States should withdraw from the international police of the seas it may proceed to reconstruct its Navy."

Mr. BRUCE. Mr. President, I have no idea of making any reply to the observations of the Senator from New Hampshire as a whole, if for no other reason because I do not see that those observations have imported any new element whatever into the discussion of the pending resolution. The only thing in the remarks of the Senator from New Hampshire to which I desire to refer is his statement that in my address to the Senate in relation to the World Court I was guilty of "blazing indiscretion."

If it is indiscretion to avow a sincere, an earnest belief that this great Nation should enter the League of Nations, I gladly subject myself to the imputation of indiscretion. How easy would it be for me to retort that perhaps the Senator from New Hampshire has that turn of mind which has little patience with the frank expression of honest convictions; but I shall not do so. On the contrary, I say that a more candid, a more persevering, a more inveterate votary of error I have never known in my life.

The Senator from New Hampshire believes in a little America. I believe in a great America. He believes that this Nation should shut itself out by a wall of selfish exclusion from all the interests of a common humanity.

I believe that its great power, its great wealth, its great prestige should be brought into relations of cooperation with the effort which the other civilized powers of the world are making to promote the cause of international peace and justice.

Should the Senator not be reelected to this body, I trust that he will seek at least a seat as a legislative representative of some county in his State, because I am free to say that it seems to me that the breadth of his horizon as a statesman is far more in keeping with the limits of a county than with the great boundaries of the United States of America.

There are some Moseses who lead the people out of the wilderness and there are some who lead the people into it, and in my humble judgment the Senator from New Hampshire belongs to the latter class.

Mr. LENROOT. Mr. President, it is nearly 4 o'clock, and, if no one else desires to speak on the World Court, I move that the Senate return to the consideration of legislative business.

The motion was agreed to, and the Senate resumed legislative session.

PROHIBITION ENFORCEMENT

Mr. JONES of Washington. Mr. President, usually I welcome interruptions, but this afternoon, under the conditions existing, I shall ask that I may be allowed to proceed without interruption.

SIX YEARS OF NATIONAL PROHIBITION

The sixth anniversary of national prohibition is an inspiration as well as a challenge to all good citizens. The observance of the law by the large majority and its enforcement in spite of a highly organized, well-financed opposition, who seek to

restore the brewers to power, have evidenced the deep-seated strength of this policy of government. Among the many successful achievements of the past six years the following are notable:

POPULAR

The popular approval of prohibition and the demand for its enforcement have been testified by the people in three national primaries and elections, where larger numbers of candidates pledged to enforcement have been chosen at each successive contest than in the preceding one.

State enforcement codes have been adopted by popular referenda votes in California, Massachusetts, and Missouri, and wet amendments defeated in several States.

Popular organizations have been formed in many parts of the Nation to express the demand for prohibition enforcement. Notable among these is the woman's national committee for law enforcement, representing 10,000,000 women, and scores of other national organizations demanding enforcement of the law.

Polls of large groups of representative people indicate no decrease in their support of prohibition, but an increase in their insistence on enforcement. The two surveys of the Manufacturers' Record, of Baltimore, are the more important of these studies from the business standpoint.

LEGISLATIVE

In the more than 50 successful Federal, legislative, judicial, and administrative battles for prohibition enforcement the outstanding legislative victories in these six years are the following:

Adoption of the national prohibition act and the supplementary prohibition act; the continued appropriations for enforcement; the enlistment of the Coast Guard in enforcement; and the concentration of liquors in Government warehouses; and use of rum-running autos and vehicles by enforcement officers. Thirty-three States had prohibitory laws when the eighteenth amendment became operative. Since that date all the remaining States have adopted codes save Maryland. In New York the code was subsequently repealed, while in two States the laws were declared invalid by the courts, but will be reenacted.

JUDICIAL

The Supreme Court has given decisions sustaining the eighteenth amendment, the Volstead Act, and other enforcement legislation. It has in the past year upheld the law permitting the search and seizure of rum-running autos without search warrants; upheld the Georgia prohibition statute, which makes it unlawful to possess liquors acquired before the law became effective; and established the power of Congress to regulate manufacture and distribution of nonbeverage alcohol.

ADMINISTRATIVE

The Executive and Justice Departments have announced the policy of prosecuting all offenders of the law, large and small, and declare that—

the Federal Government will use all its resources for prohibition enforcement.

New regulations provide for better supervision of industrial alcohol plants and the control of nonbeverage liquors, to curb the illicit use of industrial alcohol, the illegal use of wine intended for religious rites, and the use of potable liquors in nonbeverage alcoholic preparations. Whisky is eliminated as an ingredient in proprietary medicinal preparations. The Coast Guard, the Customs Service, and the Prohibition Department have been coordinated for prohibition enforcement under an Assistant Secretary of the Treasury.

Antismuggling treaties have been negotiated with nine nations, headed by Great Britain. Three other treaties are now awaiting completion.

A constant increase in penalties imposed on liquor law violators has advanced the average fine in the Federal courts from $140 to $200 since 1920, and the average jail sentence from 21 to 43 days since 1923. Padlock injunctions in 1925 were 90 per cent higher than in the preceding year. Fines and penalties imposed in Federal courts last year totaled $7,934,854.69, nearly replacing the $9,201,534.06 expended for Federal enforcement through the Prohibition Unit. In some States 90 per cent of the cases made by Federal officers are tried in State courts and are not included in this amount.

STATE LEGISLATION

State enforcement codes have been strengthened in 1925 in Arkansas, Colorado, Florida, Indiana, Iowa, Maine, Michigan, Montana, Nebraska, Nevada, New Hampshire, North Dakota, Oregon, South Dakota, Tennessee, Utah, and Wyoming. Massachusetts last year repealed the law requiring an annual vote on license. Wet measures were defeated in a majority of the States.

THE LAW VIOLATOR PAYS THE COST OF ENFORCEMENT

Few States have statistics showing the cost of prohibition enforcement or the returns from fines imposed on violators of these laws. Such States as do compile this data show that the bootlegger pays the cost of his own apprehension and conviction. Wisconsin spent $184,850 in four years for enforcement and collected in fines $1,391,417. Wyoming spent $52,500 and assessed fines of $73,000 in 21 months. Ohio's expenditure was $105,202.02 for 1925 and her receipts $2,202,764.24. In 43 counties in Illinois they expended $47,560 and collected in fines $300,811.

ECONOMIC, SOCIAL, POLITICAL, AND MORAL BENEFITS

The by-products of prohibition have affected favorably every phase of our national life. Herbert Hoover, Secretary of Commerce, has said:

There can be no doubt of the economic benefits of prohibition. I think increased temperance over the land is responsible for a good share of the enormously increased efficiency in production. There can be no doubt that prohibition is putting money in the family pocketbook.

Henry Ford, Judge E. H. Gary, Roger Babson, and many other business authorities agree with Mr. Hoover.

The first economic result from prohibition was the decrease in drink-caused poverty, which to-day is less than 25 per cent of the former amount. The United States Census Bureau reports the lowest pauperism ratio in our history. The second economic result is the stimulation of retail trade, home building, savings, and insurance by the diversion of the former drink bill of $2,000,000,000 per year from destructive to constructive channels. The third result was the increased industrial production, the lowered cost of manufacturing due to decreased industrial accidents, elimination of blue Mondays, standardization of output per worker, and the multiplied demand for goods by a sober nation.

Drunkenness has decreased. Intoxication arrests are 350,000 fewer than in the last wet year in spite of increased police severity. The United States Census report just issued shows 91,367 commitments to penal institutions for drunkenness in 1923, against 170,787 in 1910, while the penal population of the country on July 1, 1923, was 109,619, against 111,498 on January 1, 1910, a drop from 121.2 per 100,000 to 99.7 per 100,000. This census report shows fewer convictions for serious crimes than in 1910.

The death rate has declined from an average of 13.92 in the five wet years, 1913–1917, inclusive, to 11.9 for 1924, the latest year for which the Census Bureau has estimated the rate. Had it not been for the increases in deaths due to automobile accidents, the death rate would have decreased even more, and would more accurately have indicated the beneficent effect of prohibition on the national health.

Alcoholic insanity has been reduced approximately two-thirds. Delirium tremens cases are few to-day. Under license hospital wards were crowded with these cases. Drink cures once numbered 275, all busy. To-day about a score survive, but most of these are forced to add a general hospital or sanitarium business to their former specialty.

The political gains from prohibition are inestimable. The United States Senate Committee on the Judiciary reported on the widespread political corruption practiced by the brewers and the liquor trades. Popular government by majority will has succeeded to the saloon boss and the brewery cliques. Legislators and public officials are to-day more responsive to the will of the people than ever before.

The increases in church membership and attendance, the response of youth to-day to summons for life service and Christian stewardship, the general interest in new idealism and altruism in national and international relationships, and the new note of service that pervades business and industry, as well as religious circles, testify to the moral gains of the Nation since it freed itself from the licensed liquor traffic.

MORAL EQUIVALENT OF WAR

Prohibition offers the moral equivalent of war. Man must struggle or become a weakling. For the horrors of fratricidal warfare, where man fights man, society substitutes to-day a battle against the unsocial forces which sap civilization. Chief among these is the liquor traffic. The moral fiber of our citizenship is strengthened as we thus fight "against spiritual wickedness in high places." The increased leisure, luxury, and freedom from manual toil, made possible by industrial advance, new efficiency, and inventive genius, might weaken the race through self-indulgence if humanity's moral muscles were not hardened through self-control, battle for advancing ideals, deeper sense of responsibility for the weaker ones, and that eternal vigilance which is the price of liberty.

The strength and weakness of this age is revealed in the diagnostic clinic of prohibition. The eighteenth amendment was born into an atmosphere of disrespect for all law. For years, according to the American Bar Association, we had a mounting criminal ratio. Prohibition revealed the part played in the lawlessness by the liquor traffic, provided the means to curb it, and to-day is placing in prison cells notorious criminals who seemed immune from prosecution, although they had violated many laws before convicted of breaking the Volstead Act. Prohibition created no new crimes, made no new criminals, and developed no additional lawlessness. It merely revealed existing crime, criminals, and causes of lawlessness, and provided one means of correcting these evils.

The senior Senator from New Jersey [Mr. EDGE], on December 14, addressed the Senate at length in support of the bill which he has introduced providing for the modification of the Volstead Act to permit the sale of beer containing alcohol of 2.75 per cent by weight. The Senator offered as the reason for the introduction of his bill, the alleged failure of the Volstead Act as a means of enforcing the eighteenth amendment. In order that there might be no misapprehension of his attitude upon the prohibition question, the Senator called attention to the fact that he was one of the Senators who voted against the Volstead Act when it was originally passed. He also set forth his present position when, after submitting an argument in favor of 2.75 per cent beer, he declared:

If, upon further study and investigation, any better or more practical method to secure relief than I have suggested, presents itself, I stand pledged to lend every aid to help bring about such an accomplishment.

The Senator has made it clear, therefore, that he is opposed to the Volstead Act. His position upon the prohibition question in general has also been shown by his votes in this body upon measures relating to prohibition enforcement. He voted against the "antibeer bill" which prohibited the brewers from manufacturing beer for medicinal purposes; and he also voted against the treaty with Great Britain for the suppression of liquor smuggling. When, therefore, the Senator suggests that the arguments of Senators who have consistently voted for prohibition are not persuasive because of their prejudice in favor of the principle, the question naturally arises with reference to prejudice against prohibition upon the part of the senior Senator from New Jersey, for in his argument in favor of 2.75 per cent beer the Senator declared that he would favor an amendment legalizing the sale of wine, did he believe such an amendment would stand the test of constitutionality. The Senator admits by this statement that he would favor the manufacture and sale of intoxicating beverages. The issue raised by the proposal of the Senator from New Jersey, however, will not be settled upon the basis of personal prejudice. It must be judged upon facts and experience. In applying this test the various points adduced by the Senator from New Jersey will be discussed.

BASIS OF THE SENATOR'S ARGUMENT

The Senator from New Jersey admits that under the eighteenth amendment, which prohibits the manufacture and sale of intoxicating liquors, no beverage which is intoxicating, in fact, may be legalized. The Senator moreover admits that the definition of one-half of 1 per cent by volume, which is the limit of alcoholic content in permitted beverages at the present time, is sufficient to prohibit the legal sale of any beverage which is intoxicating in fact. But the Senator insists that the alcoholic content in permitted beverages may be increased from one-half of 1 per cent by volume to 2.75 per cent by weight without legalizing a beverage which is intoxicating in fact.

The principal reason urged by the Senator for a change in alcoholic content of permitted beverages is the alleged violation of the present law by those who demand alcoholic stimulants. This is equivalent to requesting a change in the law, because it is alleged the law is being violated. This raises the fundamental issue involved in this question, namely, whether a constitutional policy adopted by the greatest majority ever given any amendment to the Constitution and the law enacted for the enforcement of that policy shall be respected and enforced, or whether the people of the United States are willing to concede defeat and surrender their law-making prerogative to the dictates of an irreconcilable minority. The fact that violations of the law occur is the very strongest argument which can be made for the continued existence of the law. Furthermore, all of these violations have their origin in the alcoholic appetite liquors foster. It is illogical to suppose that by increasing the alcoholic content in permitted beverages, violations will cease.

The Senator seeks to draw a distinction between the prohibitions of the eighteenth amendment and the prohibitions of the Volstead Act. He suggests that under the amendment Congress is vested with legislative discretion in determing what beverages shall be regarded as intoxicating liquor, and that any definition which Congress may fix is valid as long as it does not legalize liquor, in fact, intoxicating. There can be no dispute upon that point. Congress has already acted. It has defined intoxicating beverages to be those which contain as much as one-half of 1 per cent of alcohol by volume. The Supreme Court of the United States has sustained this definition as valid under the eighteenth amendment. In Rhode Island *v.* Palmer (253 U. S. 350) the court declared:

Congress did not exceed its powers under the United States Constitution, eighteenth amendment, to enforce the prohibition therein declared against the manufacture, sale, or transportation of intoxicating liquors for beverage purposes by enacting the provisions of the Volstead Act of October 28, 1919, wherein liquors containing as much as one-half of 1 per cent of alcohol by volume, and fit for use for beverage purposes, are treated as within that power.

The Supreme Court in the same opinion also declared:

The declaration in the prohibition amendment to the Federal Constitution that "the Congress and the several States shall have concurrent power to enforce this article by appropriate legislation" does not enable Congress or the several States to defeat or thwart the prohibition, but only to enforce it by appropriate means.

THE PROPOSAL NOT NEW

The proposal of the senior Senator from New Jersey that the definition in the Volstead Act be amended so as to permit the sale of 2.75 per cent beer and at the same time give to the States a wider latitude in enforcing within their confines the eighteenth amendment to the Constitution is not new. The same proposal was submitted to Congress by the brewers at the time the original Volstead Act was passed and was rejected. Practically the same proposal was presented in bills introduced in the Sixty-eighth Congress. The House Judiciary Committee held hearings but declined to report a bill. The same arguments which justified the rejection of the proposal then apply now, only with greater force, since the experience of the Government with the brewers during the five years since the eighteenth amendment has been in operation. There were good reasons which prompted Congress to adopt the one-half of 1 per cent of alcohol content of the Volstead Act. These reasons still exist.

The proposal of the senior Senator from New Jersey suggests two fundamental inquiries. First, would an amendment permitting the sale of beer containing 2.75 per cent of alcohol by weight be legal? It is proposed to show in this discussion that beer of that alcoholic strength would be intoxicating in fact, and therefore such an amendment would conflict with the manifest purpose of the Constitution. The second inquiry is: If beer containing 2.75 per cent of alcohol by weight is intoxicating in fact, and therefore prohibited by the Constitution, nevertheless within the limits within which Congress may fix the alcoholic content of permitted beverages under the eighteenth amendment up to the point when it becomes intoxicating in fact, is there any point to which the present alcoholic content may be legally increased, and if so, what is that point, and would an amendment to the law permitting such an increase be either wise, justifiable, or satisfactory? This phase of the question raised by the senior Senator from New Jersey will be considered and the reasons given why, in my judgment, such an amendment would be neither wise, justifiable, nor satisfactory. At the same time, the facts justifying the definition of intoxicating liquor in the present law will be stated.

TESTS BY WHICH QUESTION IS TO BE DETERMINED

There are two simple tests to be applied by Congress in defining intoxicating liquors under the eighteenth amendment. First, the constitutionality of any proposed definition. Second, what definition will more nearly effectuate the purpose of the people in adopting the eighteenth amendment. It is elementary that constitutional provisions are to be construed in the light of their purpose.

BEER CONTAINING 2.75 PER CENT OF ALCOHOL BY WEIGHT IS INTOXICATING LIQUOR

Beer containing 2.75 per cent of alcohol by weight is equivalent to 3.42 per cent of alcohol by volume. Beer of that alcoholic content would be intoxicating to many people. The ordinary preprohibition beer contained from 3 to 5 per cent of alcohol by volume. The courts took judicial notice that such liquors were intoxicating. By drinking an added quantity of 2.75 per cent beer the cumulative effect within five to seven hours would

in many instances produce intoxication. The evidence upon this question was before the committees of Congress at the time the original Volstead Act was passed and similar evidence was submitted to the Judiciary Committee of the Sixty-eighth Congress at the hearings on the 2.75 per cent beer bills during that session. Dr. Harvey Wiley in his affidavit declared:

That he has in these various capacities had occasion to make analyses of beer and other alcoholic liquors and has observed the effect of such liquors upon the human system and their intoxicating qualities.

That the effect of alcohol on the human animal is always toxic, no matter how small the amount nor what its degree of dilution.

That there are four stages of this toxic action, or alcoholic poisoning, as follows:

The first stage marks the beginning of the toxic effect. If the quantity of alcohol is small, even the subject may not be conscious of any toxic effect. It may, however, be measured by the delicate methods now in use of determining the changes produced in the brain and the memory and in the nerve sensibility of the subject. These determinations show that even in very small quantities alcohol produces a distinctly toxic effect. The functions of the intellect are at once harmfully affected and the sensibility of the nerves of the eye and the so-called knee-jack test is to a measurable degree sensibly affected. In my own case, in former days, I noticed that when playing against an opponent of equal strength, where as a rule the results would be 50–50 over a series of games, they became 75 to 25 in his favor if I should drink a single glass of beer. I describe this kind of alcoholic intoxication as one in which the subject himself is not conscious of it and where ordinary observation fails to detect it.

The second stage of alcoholic intoxication is one in which the subject, if he is at all attentive to such matters, feels that his condition is unusual. There is a certain feeling of warmth wholly illusory and due to a partial paralysis of the peripheral nerves, which allow a greater quantity of blood in the capillaries. There is also a certain feeling of elation and an apparent freedom of speech, due to a specific influence of the coordinating organs of the brain. There is at the same time a very great depression of intellectual acuteness. This condition may or may not be observed by the bystander, just in proportion as the subject has greater or less control of his actions.

The third stage of alcoholic intoxication is one in which the ordinary symptoms of drunkenness are manifested. These symptoms vary with the individuality of the victim. He may become taciturn and morose or he may be boisterous and voluble or even hilarious. His control of locomotion and other muscular movements is more or less disturbed and he may display an acute locomotor ataxia. All of his companions know that he is drunk.

There is a fourth stage of alcoholic intoxication in which the victim sinks into entire insensibility. His face and breathing remind one of a person suffering from apoplexy and in extreme cases death supervenes.

That the visible signs of intoxication are not produced by the last drink, but depend upon all that have preceded it for many hours. Thus the first drink is as much the cause of the visible intoxication as the last. That the effect of alcohol in the liquid drink is cumulative; that it is not necessary in order to produce intoxication that the human stomach should hold at any one time a liquid containing a sufficient amount of alcohol to produce signs of intoxication; that the effect of alcohol remains in the human system and the water passes through it; that the continued consumption of alcoholic liquids, even with a low per cent of alcohol, will produce intoxication; that the amount of alcohol it takes to produce signs of intoxication depends upon various conditions; the state of resistance at the time the alcohol is taken; the habit of the drinker; his general physical condition; age; ability of the body to burn the alcohol that reaches the blood quickly before the maximum concentration reaches the intoxicating stage. These and other conditions enter into the determination whether the liquor in question has sufficient alcohol in it to intoxicate.

Beer, which is a malt liquor containing 2¾ per cent alcohol by weight, which equals 3½ per cent alcohol by volume, has a sufficient amount of alcohol to intoxicate an average person in the quantities often consumed. With this amount of alcohol in the liquor many people could consume enough to produce intoxication by the amount which could be held in the stomach at one time. The walls of the stomach are very distensible, and greater quantities than a quart of liquid may be consumed by many people within a few moments.

Dr. Arthur Dean Bevan, president of the American Medical Association, in his affidavit, stated:

The question as to whether beer containing 2¾ per cent alcohol is intoxicating or not is not a matter of scientific medical opinion but a matter of common knowledge and common sense. It is a matter of common knowledge that beer which has been heretofore sold in the United States containing from 3½ to 4¼ per cent alcohol is definitely intoxicating and that an individual can get drunk on a limited number of bottles of such beer. If, for example, the ordinary individual became more or less intoxicated on half a dozen bottles of beer which contained from 3½ to 4¼ per cent alcohol, it is a perfectly plain, common-sense proposition that the same individual would become just as intoxicated by drinking, instead of six, say, eight bottles of beer containing 2¾ per cent alcohol. There can be absolutely no doubt but that beer containing 2¾ per cent alcohol is an intoxicating beverage in that an individual can become drunk on the amount that is frequently consumed.

Similar affidavits were submitted by Dr. George Higley, professor of chemistry of Ohio Wesleyan University, Dr. W. A. Evans, of the University of Illinois Medical School, and other well-known scientific authorities.

Beer containing as much as 3.42 per cent of alcohol by volume is therefore an intoxicating liquor prohibited by the Constitution. It is clear that Congress could not license the sale of such liquors. Such a measure would be declared unconstitutional by the courts. To so amend the law as to withdraw the penalties from the sale of liquors containing less than 3.42 per cent of alcohol by volume, as is proposed by the bill of the senior Senator from New Jersey, would be to attempt to accomplish by indirection what could not be done directly. It would be an effort to evade the constitutional provision adopted by the people through their elected representatives. In short, it would mean that Congress would deliberately become, through the passage of such a law, the accessory to a plan to nullify the constitutional mandate in the few States where the State law would permit the sale of such intoxicating liquors. Constitutional provisions of this character are not self-executing.

DUTY TO ENFORCE THE AMENDMENT

The Senator from New Jersey, in effect, declared that there was no duty upon the part of Congress to pass an act for the enforcement of this provision of the Constitution. He said:

And, of course, it was not incumbent upon Congress to pass any act, as many of the provisions of the Constitution have no regulatory measures.

This is in direct conflict with the expression of Chief Justice White of the United States Supreme Court in the national prohibition cases, wherein he declared:

As the prohibition did not define the intoxicating beverages which it prohibited, in the absence of anything to the contrary, it clearly, from the very fact of its adoption, cast upon Congress the duty not only of defining the prohibited beverages but also of enacting such regulations and sanctions as were essential to make them operative when defined.

That there is also an equal duty upon the part of the States has also been expressed by the courts. The Supreme Court of Massachusetts declared:

By the eighteenth amendment concurrent power to enforce its provisions is conferred on Congress and upon the several States. The duty rests as strongly upon one as upon the other.

Prior to the eighteenth amendment the States, in the exercise of their police power, had practically unlimited authority in the enactment of legislation relating to intoxicating liquors, save such limitations as were imposed by the commerce clause of the Constitution. Through the ratification of the eighteenth amendment, the States adopted the two conditions which the resolution imposed, namely, a prohibition of the manufacture, sale, and so forth, of intoxicating liquors and the condition of the obligation for enforcement provided by the concurrent power clause. By the ratification of this amendment the States surrendered the authority they had theretofore possessed to legalize the liquor traffic. They committed themselves to the policy of prohibition and provided the assistance of the agencies of the Federal Government to aid them in enforcing it. It is needless to say that it was intended that this policy should be given effect.

Legislation is necessary to provide the machinery and penalties for its enforcement. The suggestion that Congress may disregard its obligation to enact enforcement legislation proposes a species of nullification. Abraham Lincoln in his debate with Senator Douglas at Quincy, Ill., on October 13, 1858, in reply to the suggestion that Congress might withhold legislation necessary to give effect to its provisions declared:

If you withhold that necessary legislation for the support of the Constitution and constitutional rights, do you not commit perjury? I ask every sensible man if that is not so? That is undoubtedly just so, say what you please.

It is, of course, possible to defeat a constitutional provision by withholding the penalties necessary to make it effective, but such a course is destructive of constitutional government. Each Member of Congress is required to take an oath to sup-

port the Constitution. The Supreme Court of the United States had declared that—

> the concurrent power provided by the amendment does not enable either Congress or the several States to defeat or thwart the prohibition, but only to enforce it by appropriate means.

There is no justification for attempting to legalize liquors which are intoxicating, in fact, simply by removing the penalty upon their sale. Those who desire to see the sale of intoxicating liquors legalized have their remedy by a repeal of the eighteenth amendment. Let them seek their relief through legal and orderly methods rather than through an appeal to the Members of Congress to do violence to the Constitution in disregard of their oaths of office. The advocates of 2.75 per cent bear by weight or 3.42 per cent by volume deny that such beer is intoxicating, in fact: but the burden is upon them to prove their case, and there is evidence from reputable scientists that it is. Everyone knows beyond dispute that the present definition, fixing the alcoholic content at one-half of 1 per cent, is sufficient to prevent the legal sale of intoxicating liquor. What justification can be urged to exchange a definition whose sufficiency to prevent the legal sale of intoxicating liquor no one disputes for one which is seriously challenged. Congress must be governed by the purpose of the amendment and experienced in dealing with the liquor evil.

A DEFINITION OF INTOXICATING LIQUOR NECESSARY

It is well established by general experience in the enforcement of prohibition laws that if the law is to be enforceable, intoxicating liquors must be definitely defined in the statute, and not left to the varying opinion of different juries. In many of the early ordinances, local option laws, and State statutes, the term "intoxicating liquor" was not defined. The question was left to the determination of juries in cases as they arose. This was found unsatisfactory, and with practical uniformity the States adopted definitions of intoxicating liquor similar to that later adopted by Congress in the Volstead Act. The Federal Government had a similar experience.

This was brought very clearly to the attention of Congress by the letter of Attorney General Palmer setting forth the difficulties of the Government in the enforcement of some of the regulations designed to give effect to war prohibition. The Attorney General said (vol. 58, CONGRESSIONAL RECORD, September 5, 1919, p. 5185):

> The importance of this matter has been very much emphasized by our present efforts to enforce the war prohibition act. The claim is being made that beer containing as much as 2¾ per cent of alcohol is not intoxicating. And if this must be made a question of fact to be decided by each jury, but little in the way of practical results can be expected.

It is necessary, therefore, to fix by legislation some definite standard by which the intoxicating qualities of beverages may be determined. This standard must of necessity be arbitrarily fixed.

SCIENTIFIC DETERMINATION OF DEFINITION IMPRACTICABLE

This question is incapable of scientific determination. Alcoholic stimulants affect people differently, depending upon a number of conditions, such as age, tolerance to its use, and so forth. No two individuals are affected alike. What will intoxicate one will not intoxicate another. Furthermore, there is no agreement upon what constitutes intoxication. Toxic effect begins with the first drink. Is the intoxication to be determined by the effect upon the brain and the higher nerve centers or by its later effect upon the muscular movements and general physical condition of the individual? These questions are not new.

The States under local option laws and in State prohibition laws had experimented with various forms of definition of intoxicating liquor prior to the adoption of national constitutional prohibition. This was pointed out by Mr. Justice Brandeis in the opinion of the Supreme Court in the case of Ruppert *v.* Caffey, wherein he said:

> A survey of the liquor laws of the States reveals that in 16 States the test is either a list of enumerated beverages without regard to whether they contain any alcohol or the presence of any alcohol in a beverage, regardless of quantity; in 18 States it is the presence of as much as or more than one-half of 1 per cent of alcohol; in 6 States 1 per cent of alcohol; in 1 State the presence of the "alcoholic principle."

THE SITUATION WHICH CONGRESS FACED

When Congress faced the duty of enacting legislation for the enforcement of the eighteenth amendment it was confronted by the fact that the liquor laws of 34 of the States defined intoxicating liquors as those which contained as much as one-half of 1 per cent of alcohol by volume or less. These definitions were in most instances adopted after experience. Many of the States had experimented with other forms of definition. The practical question, therefore, was: Should Congress provide in the Volstead Act a standard which experience had shown in the States to be necessary to the effective enforcement of the law, or should it provide the 2.75 per cent standard requested by the brewers, which did not obtain in a single State and which had never been successfully applied in any of the 48 Commonwealths of the Union? Naturally Congress adopted the standard which generally obtained and experience suggested.

THE PURPOSE OF THE EIGHTEENTH AMENDMENT

The purpose of all prohibitory liquor laws is to prevent the use of intoxicating liquors as a beverage. The Circuit Court of Appeals expressed it thus:

> It is important to remember that the ultimate end sought in prohibition legislation is not the prevention or restriction of mere sale of intoxicants, but the prevention of their consumption as a beverage.

In speaking of the eighteenth amendment to the Federal Constitution, the Supreme Court of the United States in the case of Everards Breweries *v.* Day (265 U. S. 554, 558) expressed it thus:

> Its purpose is to suppress the entire traffic in intoxicating liquors as a beverage.

There never was any doubt upon the part of anyone as to what was contemplated by the eighteenth amendment. The brewers of the country were among its most bitter opponents, because they realized that if adopted it was intended to put them out of business. Their suggestion to exempt 2.75 per cent beer at the time the original Volstead Act was adopted, as already pointed out, was rejected. The evils which grew out of the sale of intoxicating beverages, at which prohibition was aimed, were due to the alcohol they contained and its effect upon the human system. Aside from the legal question raised by the proposal of the Senator from New Jersey, there is also presented a practical question. Which definition of intoxicating liquors more nearly conforms to the purpose of the amendment—a definition which is sufficiently comprehensive to prohibit the legal sale of beverages containing a sufficient amount of alcohol to encourage the alcoholic appetite or a definition which would increase the alcoholic content in permitted beverages? If the purpose of the eighteenth amendment is to be accomplished, the definition of intoxicating liquors must be sufficiently comprehensive to protect the individual who is most susceptible to the stimulating effect of alcohol as well as the average individual or the individual who is least susceptible to its influence.

IMPRACTICABILITY OF ANY PROPOSAL TO INCREASE THE ALCOHOLIC CONTENT IN PERMITTED BEVERAGES

The senior Senator from New Jersey bases his appeal for a change of law upon alleged popular dissatisfaction with the existing law. The Senator, on the other hand, disclaims any intention to legalize liquors which are intoxicating in fact and admits that any statute attempting to do that would contravene the Constitution. What reason is there to believe that an increase in the alcoholic content, but not to a point which would render beverages intoxicating in fact, would satisfy those who demand alcoholic stimulants. It is the alcohol that causes the demand, and a beverage not containing alcohol in sufficient quantities to render it stimulating or intoxicating would not satisfy those who clamor for a change in the law. On the other hand, it would render the law more difficult of enforcement.

There would have to be places where such liquors could be manufactured and sold. This would mean the reopening of the breweries and the return of the saloon, for no matter what the places where such liquors were distributed were called they would soon assume all of the characteristics of the old-time saloon. It would be just as difficult to make the brewers keep their beer within the 2.75 per cent limitation as it now is to confine them to one-half of 1 per cent. The higher the alcoholic content the greater the demand for the beverage, and the bootlegger and illicit distiller would still compete under such a system. The opponents of the eighteenth amendment would not be placated, the friends of prohibition would not be satisfied. Such a change would mean only a concession to lawlessness with no compensating benefits.

UNIFORM APPLICATION OF THE CONSTITUTION

Thirty-three States had adopted prohibition prior to the date upon which the eighteenth amendment became effective. Ninety per cent of the territory of the country was dry. Sixty-eight per cent of the people lived in dry territory.

One of the causes which led to the adoption of the eighteenth amendment was the manner in which the brewers and

liquor dealers in formerly wet States sought to introduce liquors into dry States in violation of the policy of the State expressed in its laws.

The amendment contemplated not only the forbidding of the manufacture and sale of beverage intoxicants but that this policy should uniformly apply throughout the United States. Chief Justice White expressed this in his opinion in the case of Rhode Island *v.* Palmer (253 U. S. 350), in which, in speaking of the amendment, he said:

> In the first place it is indisputable, as I have stated, that the first section imposes a general prohibition which it was the purpose to make universally and uniformly operative and efficacious.

After the adoption of the amendment Congress naturally adopted the definition of liquor which obtained in approximately three-fourths of the States and fixed a definition sufficiently comprehensive to prevent any State legalizing the sale of beverages which if shipped into another State would contravene its laws.

It is rather a novel suggestion that Congress should legislate in such manner that the Constitution of the United States may operate within a State in accordance with the intensity of the alcoholic thirst of the people. Yet this, in effect, is the theory upon which the advocates of modification of the Volstead Act base their appeal.

THE PRESENT LAWS IN 38 STATES WOULD PROHIBIT THE SALE OF 2.75 PER CENT BEER

Even if the proposal to legalize 2.75 per cent beer were adopted and its validity sustained by the courts, such beer could not be sold in 38 States where it is prohibited by State law. At present the laws of 21 States prohibit all alcoholic or malt liquors, while in 17 States liquor containing as much as one-half of 1 per cent of alcohol by volume is prohibited, five States have adopted the Federal law by reference, two States have a 1 per cent standard, and three States have no code, so that as a practical matter such a change in the Federal law would not legalize 2.75 per cent beer in three-fourths of the States. On the other hand, from the States in which it could be sold it would be shipped into other States in violation of the State law. In those States where the sale of such beer was prohibited by State law much confusion would result because of the standard obtaining in the Federal law and a different standard in the State law. Instead of aiding enforcement such a change would result only in increased difficulties of enforcement.

BEER EXPERIMENT REPUDIATED

Prior to national prohibition in several of the States and Territories the experiment was made of trying to promote temperance through restricting the sale of malt liquors and permitting the sale of mild beers only. Massachusetts tried it in 1870.

According to the report of Canadian commissioners sent about 1874 or 1875 to inquire into the workings of the prohibitory law there were committed to the Suffolk County jail, Boston, in 1867, under the dry régime, 3,736 persons. In 1870, when beer was legalized, but nothing else was, there were 5,262, a difference in favor of prohibition of 1,562. There were committed to the city prison of Boston in 1867 under the dry régime 10,429, and in 1870, a wet year with only beer legalized, 12,862, a difference in favor of prohibition of 2,433. This report, quoting Judge Borden, has the following to say about New Bedford:

> The number of criminal prosecutions in the court from May 7 to October 1, 1870, under the prohibitory law, was 200; same time in 1871 under the same law was 219; same time in 1872 under the beer law 454. The cases named in 1871 include 83 for drunkenness and 46 assaults; in 1872, 274 cases of drunkenness and 67 for assaults. Besides the total of 454 this year 41 persons arrested were allowed to go without prosecution, which is about three times the number dismissed in that way during the same months in 1871.

In no State or Territory has the so-called "mild beer" policy been long retained. Such statutes after trial have either been repealed and the sale of all forms of liquor legalized or a complete prohibition of the sale of all forms of liquor has been adopted.

STATE CONTROL A FAILURE

Since prohibition has outlawed the licensed saloon that institution has few defenders. Conscious of the odium that attached to the former grog shops, those who desire to see the sale of alcoholic drinks legalized invariably propose that the place where the proposed alcoholic drinks shall be dispensed be given a different name. This is pure subterfuge. A man can get just as drunk in a Government saloon as in a privately owned one. It is not the building where liquors are sold that causes the harm. It is the liquor which is dispensed. Government control of the beverage liquor business in the United States has been a failure wherever it has been tried. The following concerning the dispensary system in South Carolina submitted by Hon. D. C. Roper, former Commissioner of Internal Revenue, to the Fifteenth International Congress Against Alcoholism is illuminating:

> While the dispensary system, revised and amended in 1890, 1896, and 1897, lasted 12 years, very early in its administration the public conscience began to revolt against it. In the warfare for its repeal Governor Tillman, by this time a United States Senator, was heartily enlisted and he was largely instrumental in securing the passage of an act in 1907 which abolished the State dispensary and left at the mercy of the people 75 county dispensaries then in existence. Under the local-option privileges granted in this law 22 counties immediately voted to close their dispensaries. In 1909 the legislature took another advanced step by passing a state-wide prohibition act, except as to counties that had voted for the dispensary under the law of 1907. The state-wide dry proposal submitted to the voters by the legislature was carried by a large majority in 1915 and the state-wide prohibition law enacted as the result of this election went into effect January 1, 1916.
>
> The evils brought by the liquor traffic to the community were numerous and diverse. It is substantially accurate to say that the dilatory influence which it exercised could be measured principally by the amount of alcoholic liquor consumed, the extent of immorality and lawlessness which it promoted, and by the baneful and demoralizing influence upon politics and government which it produced. Measured by these three tests, it seemed certain that the South Carolina dispensary law did not improve conditions, but made them worse; but undoubtedly under the dispensary régime the amount of liquor introduced and consumed in the State was increased and there was certainly no improvement in the way of moral betterment or law enforcement or in the effect of the liquor traffic upon State or local politics.
>
> Nevertheless there is sound philosophy in the statement that the South Carolina dispensary law rendered a service to the people of that State as well as of the Nation by demonstrating as probably could not have been done in any other way the fallacy of the State monopoly method of handling the liquor question.

When the revenue incentive is present in connection with government control of the liquor traffic it invariably results in the worst form of political activities and completely defeats the temperance purposes such plans are alleged to promote.

NO COMPROMISE ON LIQUOR QUESTION

Advocates of 2.75 per cent beer legalizing contend that it would compose the differences of opinion between opponents of prohibition and the supporters of the policy. This argument completely overlooks the point of difference between the two views. Almost without exceptions those who oppose prohibition do so because they desire the sale of intoxicating liquors to be legalized. They will not be content with any change in the law, save one that will permit the return of liquors that will intoxicate in fact. Such a change can only be legally accomplished by an amendment to the Constitution. On the other hand, those who believe in prohibition do so because they are convinced of the public evils arising from the sale of alcoholic beverages. Knowing that it is the alcohol that is the cause of the evil, this vast majority of our citizens will never complacently accept any change in the law which tends to restore the legal sale of alcoholic beverages. Furthermore, those who support the eighteenth amendment and the present law know that the proposal to attempt to legalize 2.75 per cent beer is but the entering wedge in the battle for the return of distilled spirits as well. The senior Senator from New Jersey admits in his argument for 2.75 per cent beer that this is but the initial step in the program, for in his summarization he declares:

> Granting the legalizing of a 2.75 per cent beverage would not solve the problem, it would accomplish much.

The compromise argument of beer advocates also overlooks the fact that before the adoption of national prohibition the people in the States had made compromise after compromise with the advocates of liquor in an effort to solve the problems growing out of its regulated sale. Every system of control, short of actual prohibition, was tried out in the States before prohibition was finally resorted to. These ranged all the way from laws which permitted the sale of liquors under low license, high license, sale of liquors in groceries in limited quantities not to be consumed on the premises, the system of Government-operated dispensaries, the prohibition of the sale of hard liquors, and restricting sales to so-called mild beers, all of which proved ineffective and unsatisfactory. The liquor traffic has respected and obeyed no law from the time of the whisky rebellion in 1783, when a small tax on distilled spirits was resisted, down to the present time. It violated the license laws, the Sunday closing laws, the laws against the sale of

liquor to minors and females, laws prohibiting the sale on election day, and interstate shipment laws. Even in the day of the licensed distillery and saloons, the Internal Revenue Department for decades constantly employed a large corp of officers who did nothing else but suppress illicit distilling. In fact, of this experience the majority of the American people formed the conviction that the liquor traffic is one which can not be regulated. It must be exterminated.

The brewers were among the worst class of violators of the law. This was conclusively proven by the testimony of the subcommittee of the Senate Judiciary in 1919, which made an investigation of the unpatriotic activities of the brewing industry. This committee in its report found (CONGRESSIONAL RECORD, September 5, 1919, p. 5187):

With regard to the conduct and activities of the brewing and liquor interests, the committee is of the opinion that the record clearly establishes the following facts:

(a) That they have furnished large sums of money for the purpose of secretly controlling newspapers and periodicals.

(b) That they have undertaken to and have frequently succeeded in controlling primaries, elections, and political organizations.

(c) That they have contributed enormous sums of money to political campaigns in violation of the Federal statutes and the statutes of several of the States.

(d) That they have exacted pledges from candidates for public office prior to the election.

(e) That for the purpose of influencing public opinion they have attempted and partly succeeded in subsidizing the public press.

(f) That to suppress and coerce persons hostile to and to compel support for them have resorted to an extensive system of boycotting unfriendly American manufacturing and mercantile concerns.

(g) That they have created their own political organization in many States and in smaller political units for the purpose of carrying into effect their own political will, and have financed the same with large contributions and assessments.

(h) That with a view of using it for their own political purposes they contributed large sums of money to the German-American alliance, many of the membership of which were disloyal and unpatriotic.

(i) That they organized clubs, leagues, and corporations of various kinds for the purpose of secretly carrying on their political activities without having their interest known to the public.

(j) That they improperly treated the funds expended for political purposes as a proper expenditure of their business and consequently failed to return the same for taxation under the revenue laws of the United States.

(k) That they undertook through a cunningly conceived plan of advertising and subsidation to control and dominate the foreign-language press of the United States.

(l) That they have subsidized authors of recognized standing in literary circles to write articles of their selection for many standard periodicals.

(m) That for many years a working agreement existed between the brewing and distilling interests of the country by the terms of which the brewing interests contributed two-thirds and the distilling interest one-third of the political expenditures made by the joint interest.

The brewing interests owned and controlled many of the saloons operated prior to prohibition. Beer represented approximately 90 per cent of the quantity of intoxicating liquor consumed. In the face of these considerations it is evident that there can be no compromise upon this question.

BREWERS HAVE NOT OBSERVED THE LAW SINCE NATIONAL PROHIBITION

The following taken from the evidence submitted for the House Judiciary Committee for the Sixty-eighth Congress, at the hearings on the 2.75 per cent beer bill, shows that the control of the breweries had been one of the most perplexing problems since the Volstead Act has been in force. Many of them have attempted to operate in open defiance of the law. They have erected high walls to conceal their activities, have built barricades and in other ways attempted to obstruct officers of the law in their efforts to inspect and supervise them. Fraudulent practices have been resorted to in the attempt to obtain permits. When the permit of a corporation has been revoked the principals have frequently sought to reorganize the corporation in the name of different officers, in the attempt to circumvent the law. The following is the record:

It has been necessary to seize 127 breweries operating in violation of the law, 50 of which were nonpermit breweries. In most instances libels were filed looking to the forfeiture of the property used in violation of the national prohibition act.

Number of brewery sites	991
Breweries operating with permits	410
Breweries suspected of operating without permits	581
Breweries cited to show cause why permit should not be revoked	75
Permits actually revoked	40
Applications for renewals disapproved on account of violations	186
Major violations reported	475
Informations prepared	150
Indictments prepared	81
Injunctions prepared	122
Convictions	89
Total fines	$266,025
Temporary injunctions secured	40
Permanent injunctions secured	25
Total offers in compromise accepted	$2,110,000
Contempt proceedings instituted	10
Convictions for contempt	5

Aggregate jail and penitentiary sentences 13 years 3 days.

WHO WANTS BEER?

Stripped of all the camouflage with which the subject is clothed in the usual discussions of the questions there are fundamentally but two underlying reasons for the clamor for beer. First, the alcoholic appetite which demands it and second the avarice of those who desire to exploit the weakness of their fellowmen for profit. The American people have determined that the liquor business is a great public evil. They have expressed their view by amending the Constitution which is the fundamental law. Congress has recognized the judgment by adopting the Volstead Act and fixed the alcoholic content in permitted beverages at a point which will protect against the cultivation of the alcoholic appetite under sanction of law. The people of the United States having taken this progressive step will not yield to the dictates of appetite or avarice and permit them to become the guide of legislative action.

NO MERIT IN 2.75 PER CENT BEER THAT WILL MAKE THE LAWLESS LIQUOR TRAFFIC LAW-ABIDING

There is no peculiar merit in 2.75 per cent beer which will justify the claim that its sale if permitted would cure liquor lawlessness. Reference is made to violations of the Volstead Act, but it must be remembered that most of these violations have their origin in the alcoholic appetite developed under the former wet régime in force since the inception of the Government. What reason is there to believe that if Congress would amend the law to permit the sale of 2.75 per cent beer the liquor traffic would suddenly have a change of heart?

WETS SLANDER CHARACTER OF AMERICAN CITIZENSHIP

The claims of the wets concerning the liquor lawlessness of the American people are slanders upon the character of our citizenship. That such claims are grossly exaggerated is plainly apparent when we consider the example set by the people of the State of New York. In that Commonwealth when the opponents of prohibition, by a stroke of political fortune, temporarily gained control of the legislative assembly, in order to give vent to their prejudice against the prohibition policy, they repealed the enforcement law and left the State for the first time in her history without a statute for protection against the evils of the liquor traffic. Yet under such circumstances, in this State having the largest population, the greatest foreign element, close to the border and the seacoast, the self-restraint and general observance of the law has given eloquent testimony to the patriotic and law-abiding character of her citizenship. In this State the opponents of the eighteenth amendment have done their utmost to encourage liquor lawlessness, but without pronounced success.

That there are violations of the Volstead Act is true. No law is universally respected. But that conditions in the United States, with the licensed saloon abolished by the Volstead Act, even in those communities where the law is least enforced, are vastly improved over what they were formerly few will dispute save those whose judgment is warped by prejudice inspired by thirst or avarice. A statute when it approximates 100 per cent of observance passes beyond the realm of law and becomes embedded in the customs of the people. An illustration of this is found in the laws against slavery and dueling in the United States. But until custom has finally been established the law is the weapon with which the majority of the people must protect the public interest.

Violations of the Volstead Act are but the protest of the minority against a constitutional policy expressing the progress of social ideals of the people in this democratic Republic. Violations of such a statute are to be expected until the thoughtless minority who oppose social advancement catch the vision of social progress. The history of America from the hour of the Declaration of Independence to the present has been one of advance in the struggle for a better order. Success has been due to the fact that the people have never surrendered to the forces of reaction. Advanced positions taken by the majority have been maintained in the face of relentless opposition until

the minority, through education and experience, have caught step with the spirit of progress. America to-day will not retreat at the demand of the advocates of booze.

ALLEGED INCONSISTENCIES IN THE VOLSTEAD ACT

The Senator from New Jersey has pointed to the provision in the Volstead Act which permits the possession of liquors in the home, when such liquors were acquired before the law became effective. This he declares to be a discrimination in favor of the wealthy as against the poor. This argument is without merit. The law applies to all alike. Any individual who had the means could lay in a stock of liquors before the law became effective. One individual may own a yacht and ride in a private car, this is due to his greater purchasing power, not to the fact that he has any greater right under the law to purchase than has his less fortunate neighbor.

The argument also completely overlooks the reason why the possession of liquors bought before the law became effective was not declared unlawful. The Supreme Court of the United States in the case of Barbour against Georgia had left undecided the question of the constitutional power of a legislative body to enact such a statute. To have included such a provision in the Volstead Act would have raised serious constitutional questions as to the validity of the statute. The Supreme Court of the United States in the case of Samuels against McCurdy, on March 2, 1925, passed upon this question and upheld the power to prohibit the possession of such liquors. Will those Senators who claim the provision of the Volstead Act to be discriminatory aid in amending the law so as to prohibit the possession of such liquors, and thus remove the discriminations of which they complain?

THE FRUIT-JUICE PROVISION

Criticism is made of the provision of the Volstead Act which permits the housewifes and farmers of the country to conserve their fruits by converting them into nonintoxicating cider and fruit juices. It is said it is a serious injustice to permit this, and, on the other hand, to prohibit the brewers to make beer or the citizen to manufacture home brew. There is no merit in the contention. The law expressly requires such cider and fruit juices to be nonintoxicating. It is a provision which permits the conservation of quantities of fruit which would otherwise be annually wasted. No similar reason for conservation existed for a like exemption with reference to home brew. If the provision has been abused, as alleged, it can be safeguarded, though from the enforcement standpoint the difficulties arising from abuses under this section have by no means been as great as those arising from the brewers, whose privileges the proposed bill would enlarge.

THE 200-GALLON TAX-EXEMPTION CERTIFICATE

Reference was also made to the former Treasury Department regulation, recently repealed, which permitted individuals desiring to manufacture not exceeding 200 gallons of nonintoxicating fruit juices in the home to file a notice of intention to secure exemption from taxation under the internal revenue laws. This was a regulation issued under the tax laws. It did not purport to legalize the production of fruit juices which were intoxicating in fact. The text of the regulation declared:

> The nonintoxicating fruit juices thus manufactured tax free may not be commercialized or sold.

Congress did make a distinction in the definition of intoxicating liquors, between beverages manufactured and sold for commercial purposes and those made for domestic consumption in the home. Beverages put on the market for sale were required to contain less than one-half of 1 per cent of alcohol by volume, while fruit juices for domestic consumption in the home may develop alcohol in excess of one-half of 1 per cent without violating the law, but they must be kept nonintoxicating in fact, or the maker is subject to the penalties of the law. Congress recognized that the great problem in enforcement would come from those who engaged in the manufacture and sale of beverages for commercial purposes. As to such beverages, a fixed definite standard was established which would facilitate enforcement and at the same time protect the commercial manufacturer of nonintoxicating beverages who may know with certainty when his product is within the law. On the other hand, it was recognized that the housewife would not have the facilities for determining alcoholic content, so as to arrest fermentation at the point when it reached the precise point of one-half of 1 per cent by volume, and as to this class of beverages made under such circumstances, therefore, an exception was made, and they were required to be kept nonintoxicating in fact. If this exemption has been abused to the extent the Senator from New Jersey claims, it should be safeguarded; but it is strange logic which would urge one provision which it is alleged has been abused as a reason for creating another provision which would also be abused.

VOLSTEAD ACT A SUCCESS

The senior Senator from New Jersey asserts that the Volstead Act has been a failure; that it has provided "concoctions that have broken down the public health and cause unspeakable suffering and fatalities"; also that we have become a lawless Nation, whereas prior to the eighteenth amendment "temperance was fast gaining a foothold and crime was decreasing." It is asserted with equal confidence that the Volstead Act is not a failure. No one claims that it is 100 per cent enforced. No law is. But even in States where there has been the least measure of State cooperation in its enforcement, such as in New York and Maryland, the conditions to-day are immeasurably better than in the former saloon days. The charge that the Volstead Act has broken down the public health falls flat when contrasted with the reports of the crude death rate per 100,000 as published by the United States Census Bureau, which shows that the death rate dropped from 14.3 in 1917 to 11.4.

Lawlessness was not decreasing prior to the Volstead Act. It was annually becoming a problem of serious proportions. What would have been the result in the country if the Volstead Act had not outlawed the saloon with all the evils and incentives to crime with which it was surrounded. It is conceded that crime is altogether too prevalent in the United States; the Volstead Act did not cause this, it only revealed the situation. The way to prevent crime is not to be found through making easier of access alcoholic beverages which are generally conceded to be one of the greatest causes of crime but by enforcing the laws, studying the defects in the administration of justice, and applying the remedy. Bankers concerned by the occurrence of robberies do not propose that all bank vaults be left unsecured and unguarded, likewise those who are genuinely concerned about preventing liquor lawlessness do not propose to facilitate it by withdrawing the securities against it, thus making it easier to violate the law of the Constitution.

The attitude of the senior Senator from New Jersey upon this point is consistent with his record upon the question of prohibition enforcement. The Senator declared:

> At the same time, put all the power of the Government back of real efforts to stop the importation of hard liquors. We shall never get prohibition by hunting flasks. I approve heartily of the efforts to go after the smugglers, the rum runners, and the Canadian specials.

Yet, when the treaty with Great Britain to prevent liquor smuggling was before the Senate, the senior Senator from New Jersey was one of the seven Members of the Senate who voted against this measure designed to aid the Government in the suppression of this form of lawlessness.

PEOPLE OPPOSED TO BEER

The sentiment of the country for temperance has grown stronger year after year. This temperance sentiment was demanding not only the prohibition of distilled spirits but the prohibition of malt liquors as well. In State after State where the question of permitting the sale of malt liquors as a means of promoting temperance was submitted to a vote of the people the decision was against beer.

Ohio has had two referendums on beer; the first in 1919, when a 2.75 per cent measure was voted on. The vote stood 504,688 against, 474,907 for, or a majority of 29,781 against beer.

In 1922 a similar measure was voted on. The vote was 908,522 against and 719,505 for, or a majority of 189,017 against beer.

Michigan voted on April 7, 1919, on an amendment to the State constitution to allow the manufacture and sale of all vinous and malt liquors. It was defeated by a majority of 207,520 votes.

California voted on the Harris Act to enforce national prohibition in 1920. The vote was 465,537 for, or a majority of 65,062 against this measure.

In 1921 the Wright Enforcement Act was submitted to the people, and they approved it by a vote of 445,976 for to 411,134 against, or a majority of 33,942 for enforcement. Two years previously the code had been defeated by a majority of 60,000. The question of the alcoholic content was the principal issue in the last election.

Oregon voted in 1916 on an amendment to permit the manufacture and sale and delivery of 24 quarts of beer to any one family within four successive weeks, as they had been permitted to import previously.

The majority against this proposal was 54,626.

Washington voted on a beer bill in 1916 and defeated it by a vote of 245,399 against to 98,843 for, or a majority of 146,556 against beer.

At the same election they voted on a hotel or general liquor bill, which was defeated by a vote of 263,390 against to 48,354 for, or a majority of 215,036 against.

Arizona voted on a "personal-use" amendment in 1916 and defeated it by over 12,000 majority.

Colorado voted in 1916 on a measure, which declared that "beer was not an intoxicating liquor within the meaning of the prohibition clause of the Constitution" and providing for the manufacture and sale of beer for home consumption. It was defeated by a majority of 85,792.

It is not true, therefore, as some contend, that the people were turning from hard liquors to mild beer as a temperance measure. There was less beer consumed in 1917, immediately preceding national prohibition, than in 1913 and 1914. The fact is, the people of the States had so much difficulty with the brewers in enforcing prohibitory laws that in 26 out of the 33 States which adopted prohibition prior to the eighteenth amendment laws were enacted which either prohibited all malt liquor, or liquors containing any alcohol. In other words, the one-half of 1 per cent limitation was not applied generally to malt liquors. The Supreme Court of the United States sustained the right of the States to enact such laws in the case of Purity Extract Co. *v.* Lynch (226 U. S. 192). In this case the statute of Mississippi which prohibited all malt liquors was upheld, although it was shown the beverage in question was nonintoxicating and contained no alcohol. Similar provisions were contained in local option laws in some of the States which were wet when the eighteenth amendment was ratified.

In the face of these facts it is utterly futile to contend that the people did not intend by the adoption of the eighteenth amendment to prohibit the sale of beer containing as much as 2.75 per cent of alcohol by weight. There was not a single State where such a law obtained when the eighteenth amendment was submitted, and at no election where the question has been voted upon since that time have a majority of those voting in the election approved such a plan.

2.75 PER CENT BEER A SUBTERFUGE

The advocates of 2.75 per cent beer admit that the end they seek is the repeal of the eighteenth amendment. The senior Senator from New Jersey declared:

> If I had the power I would amend the eighteenth amendment to provide for a reasonable distribution of hard-spirited beverages.

He also declared in favor of intoxicating wine when he said:

> I would favor such an amendment did I believe it could stand the test.

In other words the present purpose is to secure all the alcohol possible under the eighteenth amendment. This is not a temperance move. It is the initial state of a campaign to restore the liquor traffic. The eighteenth amendment inaugurated a prohibition policy. It was deliberately enacted by legal methods. The 2.75 per cent beer proposal is an attempt by opponents of prohibition to accomplish by indirection what they can not accomplish directly, and this to be justified upon the claim that lawbreakers will not obey the present law. America has never yet surrendered to lawbreakers. Those who oppose the eighteenth amendment have the right to seek its repeal, but when realizing their inability to secure the repeal of the amendment they advocate its disregard, they preach nullification. This strikes at the very vitals of constitutional government, for if one constitutional safeguard may be ignored others may be also, and ultimately anarchy will result. Irrespective of views upon the wisdom of the policy of prohibition, patriotism requires that as long as it is a part of the Constitution it must be obeyed, respected, and enforced. America will never exchange the tried and tested advantage of constitutional government for the foaming froth on a stein of 2.75 per cent beer.

The evil effects of certain kinds of propaganda against the enforcement of the eighteenth amendment appear in the utterances of irreconcilable wets from day to day. To advocate that this part of the Constitution is wrong and a vicious assault on personal liberty without calling attention at the same time to the responsibility of every citizen to obey laws legally enacted has a very dangerous effect upon those who fail to think clearly about their obligations as citizens.

Individualism has been overemphasized and obligations to society ignored until dangerous doctrines are being proclaimed by so-called intellectuals who are, in effect, advocating a doctrine of individualistic anarchy.

In the Yale Daily News of January 8, a Boston lawyer by the name of Robert Dickson Weston pictures the horrible conditions that would obtain if everybody obeyed the eighteenth amendment, as follows:

> Then the dreary Puritanical paradise of the prohibitionists will be established * * * we shall be sunk up to our ears in a slough of despond.

He then says:

> On the other hand, if everybody disobeys the law, prohibition will be killed. * * * A short, sharp attack of bribery and corruption will do much less harm than a long régime of "grape juice and piffle."

It is a little difficult to understand how intellectual, patriotic citizens in a college town like New Haven would tolerate such unreasonable utterances. The effect of them upon certain of the editorial staff of the paper was reflected in the same issue, which says:

> The quickest way to get rid of this kill-joy statute and monument of intolerance is not to obey the law but to disobey it and thus to force its repeal. * * * Hypocrites, busybodies, and fools have caused the present problem; wise and good men must solve it.

The solution of the present situation is, according to these intellectual wiseacres, to defy a part of the Constitution which was adopted by the largest majority of any part of our national organic law. If those who are opposed to this amendment can successfully defy it because it conflicts with their thirst and their ideas of personal liberty, similar minorities can defy other parts of the Constitution successfully, and the whole fabric of constitutional government will crumble. This Yale periodical should read and heed the words of Chief Justice William Howard Taft, a former professor of Yale University:

> A citizen who is in favor of the enforcement of only the laws for which he has voted, and in the principle and wisdom of which he agrees, is not a law-abiding citizen of a democracy. He has something of the autocratic spirit. He is willing to govern but not be governed. He is not willing to play the game according to the rules of the game.

Or, as Chief Justice Taft said at a recent meeting of the Yale alumni at the Capital City:

> The safety of society is in obedience to law. If you like the law or not, as long as it is regularly adopted it is our business to obey it. To obey the law is to be a true democrat. If every man thinks that every law must suit him in order to obey it, he is not a democrat but an anarchist. * * * Young men should be trained to know that to be patriotic and democratic members of society they must realize not only what it means to obey but to instill the act of obedience in others.

If this youthful editor of the Yale News would get in touch with the teachings of George Washington he might get a better vision of his obligation as a citizen of this Republic. The Father of our Country, in his Farewell Address in 1796, said:

> The basis of our political system is the right of the people to make and alter their constitutions of government. But the Constitution which at any time exists, 'till changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all.

If this Boston lawyer and youthful Bolshevik editor would get acquainted with those who set the standard of loyal citizenship in the Republic, they would revise their opinion. Their individualistic theory is in strange contrast with that of President Coolidge's inaugural address on March 4, 1925, when he said:

> In a republic the first rule for the guidance of the citizen is obedience to law. Under a despotism the law may be imposed upon the subject. He has no voice in its making, no influence in its administration; it does not represent him. Under a free government the citizen makes his own laws, chooses his own administrators, which do represent him. Those who want their rights respected under the Constitution and the law ought to set the example themselves of observing the Constitution and the law. While there may be those of high intelligence who violate the law at times, the barbarian and the defective always violate it. Those who disregard the rules of society are not exhibiting a superior intelligence, are not promoting freedom and independence, are not following the path of civilization, but are displaying the traits of ignorance, of servitude, of savagery, and treading the way that leads back to the jungle.

We might also suggest that these advocates of personal liberty and self-determination read the timely warning to private citizens and public officials by the judicial section of the American Bar Association. It says:

> The judicial section of the American Bar Association, venturing to speak for all the judges, wishes to express this warning to the American people: Reverence for law and enforcement of law depend mainly upon the ideals and customs of those who occupy the vantage ground of life in business and society. The people of the United States, by

solemn constitutional and statutory enactment, have undertaken to suppress the age-long evil of the liquor traffic. When for the gratification of their appetites or the promotion of their interests lawyers, bankers, great merchants and manufacturers, and social leaders, both men and women, disobey and scoff at this law, or any other law, they are aiding the cause of anarchy and promoting mob violence, robbery, and homicide; they are sewing dragon's teeth, and they need not be surprised when they find that no judicial or police authority can save our country or humanity from reaping the harvest.

If these wiseacres of a wobbling faith in the Republic think they can advocate the violation of one law without undermining respect for other laws, let them read these words of discretion and wisdom from Judge Broyles, of Georgia, after referring to Macaulay's prophecy that this Republic would fail from lawlessness within, who said:

If this prophesy is not to be fulfilled, the tide of lawlessness which is sweeping the Nation must be arrested and the cause of it destroyed. Our laws and the Federal Constitution stand like a dike to arrest the tide; but if there is a single break in the dike, it will disappear, and we will be engulfed in the rushing waters of lawlessness. For the officers or the people to permit laws to be violated is a deadly attack upon the Government. Its contagion spreads from one law to another. It distills its deadly poison into the arteries of our jurisprudence. It palsies the power of high officials. It assassinates the vital process of orderly control. It is a prolific source of disease to the whole social order and jeopardizes the life of the race.

The time has come for loyal citizens of the Republic to speak plainly on this question. We can not classify violators of the Constitution into two classes—respectable and disrespectable. The person who will not obey the eighteenth amendment because it conflicts with his thirst is just as bad a citizen as the one who violates other parts of the Constitution because he does not like our property laws or other theories of government.

A college professor or student or college president who advocates nullification of the Constitution is not a good citizen of the Republic. He wants all the combined blessings that come from society on the one hand and yet enjoy all the personal liberty and freedom that belongs only to the savage on the other.

If this Republic fails, as most other republics have, it will be because patriotic citizens surrender to this kind of false doctrine of individualistic anarchy. The issue will be cleaner cut everywhere until the question is settled right. This Government is based upon the proposition that when the constituted majority in a legal and orderly manner adopt a constitutional provision of law it is sacredly binding upon all.

The man or the woman who does not accept that theory of government ought to be manly enough to move to some other country where his individualistic doctrines are recognized as the policy of government. This Nation is what it is to-day because the majority, when a public question has been settled, abides by the will of the majority. There is no other way out if this Republic is to endure and to carry out the purpose of those who founded it.

Mr. EDGE. Mr. President, I had intended to defer to a later date a reply to the Senator from Washington. In fact, I should very much have preferred to await the public hearings on the part of the subcommittee of the Committee on the Judiciary, which I understand will shortly be named to consider all that is presented by those who desire to come before them in connection with the bills now pending relating to or proposing amendments to the Volstead Act. However, the Senator from Washington has made several statements to which I desire briefly to allude, and there have been other occurrences in the past few days outside of this Chamber to which I think some attention should be paid.

With all due respect to the Senator from Washington—and no Member of this body knows better than he my respect for him—as I analyze the views expressed by most of the defenders of the Volstead Act, they proceed on the theory that it is almost criminal to suggest amendments to that sacred law; that when one does suggest remedial ideas or thoughts which might alleviate the present spirit of protest and challenge he immediately invites nullification of the Constitution; he allies himself with the underworld; he, as expressed in the closing remarks of the Senator from Washington, should leave this country, because in his judgment and through his conviction he feels that this intolerable condition might be remedied by sane amendments. I must take emphatic exception.

I take the position, Mr. President, and I shall continue to take the position, refusing to condone present conditions, that to endeavor to suggest remedies to relieve this situation is much more patriotic than to defend it.

I am not to-day going into the detail that I should like to indulge in connection with the discriminations, the inconsistencies of the Volstead Act as I see them. They invite protest and more. I covered that subject rather exhaustively, and I hope comprehensively, in this Chamber a month ago. Since that time the determination of our own Department of Justice not to appeal decisions definitely establishes and legalizes those discriminations.

In other words, and in order to alleviate a well-known opposition throughout the country six years ago, section 29 of the Volstead Act was so framed or amended that it would permit ciders and fruit juices or wines to be produced in the home for home consumption, with a proviso that they should not go beyond the point of nonintoxication. This was, of course, consideration for the farmers who were emphatically and successfully protesting.

The Department of Justice and the Prohibition Department from the passage of the act six years ago, however, took the position, and endeavored to establish it in various ways in the Federal courts, that this privilege meant that one-half of 1 per cent of alcohol, as provided in another section of the act, would be the maximum permitted. The Government has been defeated in this contention, starting with the Hill case down to a recent case in West Virginia which brought about the conclusion to which I have referred. In other words, as the result of that decision—and I have a photostat copy of the opinion, a portion of which I will ask to have inserted in the RECORD without reading—it was established that a citizen could produce wines and ciders ad libitum to any strength, regardless of the general prohibition of one-half of 1 per cent, presumably not intoxicating, but that the burden of proof of intoxication was entirely on the Government.

Let me quote from the opinion:

In his brief T. A. Brown, Esq., United States attorney, says:

"In order that the question may be settled squarely on the construction of the last clause of section 29 [of the Volstead Act], the Government concedes here and now that the said wine was not, as a matter of fact, intoxicating."

The Government insists that the defendant is guilty because the jury found from the opinion of the police officers that the concoction contained as much as one-half of 1 per cent alcohol, and contended that this concoction or beverage, although not intoxicating, comes under the general prohibition in the act defining liquor, and that the defendant is subject to the pains and penalties prescribed generally in the act. This brings us squarely to the interpretation of the last clause of section 29 of Title II of the national prohibition act, which is as follows:

"The penalties provided in this act against the manufacture of liquor without a permit shall not apply to a person for manufacturing nonintoxicating cider and fruit juices exclusively for use in his home, but such cider and fruit juices shall not be sold or delivered except to persons having permits to manufacture vinegar."

We were interested in the argument of the Government brief in this case, but are forced to the conclusion that whatever Congress may have meant by inserting the above clause in the prohibition act, we are bound to consider and accept the plain language of it. We are forced to the conclusion that Congress intended to take out of the general class of intoxicating liquors nonintoxicating ciders and fruit juices made by one to be used exclusively in his home, and therefore put nonintoxicating vinegar and such fruit juices in a different class, and required that before a person can be convicted under the act for manufacturing such vinegar and fruit juices same must be proved by the Government to be in fact intoxicating.

We therefore hold that in all such cases it is necessary to prove that such vinegar and fruit juices are in fact intoxicating before a conviction can be had.

This view of this section is unanimously held by the court, and, as the writer of this opinion was a member of the lower House of Congress when this act was passed, he can say without doubt that the foregoing construction of this section was the intent and meaning of Congress. This provision now under consideration was not a part of the bill as it passed the House of Representatives, but was inserted in the Senate after a number of speeches had been made by persons complaining that the "grandmother and housewife" were going to be "penalized and made criminals," if they made blackberry cordials or blackberry wines for use in their own home. In order to meet such objection on the part of such critics of the bill, this provision was agreed upon and inserted in the Senate after a conference of Members and Senators deeply interested in the passage of the act and the success of prohibition. A different interpretation than this one placed upon the act would be to totally disregard the plain language of the Congress which inserted this provision in the Volstead Act for the purpose of making a different rule for conviction of persons who make nonintoxicating vinegar and fruit juices exclusively for their home uses.

We still have some protection, though not as much as some of us feel we should have, under the fourth amendment to the Constitution, which prohibits the invasion of homes, without warrant, by police officials. So it is perfectly obvious, Mr. President, that the result of that decision is—and the Attorney General has made the public statement that he will not appeal the case to the Supreme Court—that homes throughout this country having fruits from which wine and cider can be made will produce it as they please, and do. Over 45,000 permits were solicited and secured in one State—California—alone under the old system of issuing permits, which, as the Senator very correctly says, only exempted the tax and in no way related to the question of contents. Forty-five thousand permits alone were asked for by the citizens of California, which under that system permitted 200 gallons nontaxable per permit, or 9,000,000 gallons of wine in one State alone; and yet the claim is made that this concession was only to protect a few housewives with their preserving, and that this country is satisfied with absolute prohibition.

Speaking of wine production, permit me to insert some information re consumption of grapes, without reading:

[Richman & Samuels (Inc.), commission merchants, car-lot distributors fruits and produce]

336 WASHINGTON STREET,
New York, December 19, 1925.

Hon. Senator WALTER EDGE, of New Jersey,
Care the United States Senate, Washington, D. C.

DEAR SIR: I take this oportunity of addressing you after noticing through the newspapers your wonderful efforts in revoking the present prohibition law. You are absolutely right when you say it is making us lawbreakers instead of law-abiding citizens.

I happen to be in the fruit and vegetable business, and am inclosing statistics from the United States Government report showing the shipments of the State of California alone of grapes in carload lots—just imagine in 1925 almost 2,000,000 tons of grapes; at least 75 per cent of these were the so-called juice grapes. What becomes of them? Don't they, in your opinion, become wine that is mostly made by families?

Is this not against the law? Would it not be better with the young folks in the homes, knowing that it is against the law, to make this wine? Would it not be better that this law be revoked and that light beer and wines be allowed in the homes without any restriction? Is it not human nature to want the things that we are not allowed to have? In my opinion there is just one way; let us have prohibition in full force or not at all.

I admire the wonderful stand you have taken, and thought perhaps these figures would be of some service to you. I wish to add that you may at least add 5,000 carloads per year of 13 tons to the cars that were shipped out of other States besides the State of California. I am a man that travels considerably throughout the United States and constantly engage in discussions on the subject of prohibition and have yet to find, deep down in their hearts, anybody who is actually in favor of it.

Let us have light wines and beer, and let the Government sell the whisky the same as they do in Canada.

Very truly yours, M. SAMUELS.

California—Grape car-lot shipments, 1920 to 1925

1920: 26,974. 1921: 32,879. 1922: 43,884. 1923: 55,342. 1924: 57,318. 1925, to December 12: 72,255.

[New York Sun, November 23]

CALIFORNIA GRAPES FLOOD CITY

Unprecedented shipments of California grapes, totaling by the end of the season probably 17,000 cars, 3,500 more than a year ago, have been received in New York this fall. Last month 8,118 carloads were received, double the quantity shipped in 1922 and fourteen times that of October, 1918.

Of the total it is estimated that not more than 20 per cent is served to the consumer on the stem. The rest reaches him eventually in bottles. The demand here is heaviest for the "juice" varieties—the grapes which are eventually drunk.

Receipts of all other fruits combined were far less than California grapes alone this October. Although apple supplies have been unusually heavy, they were less than one-third as large. California grapes receipts were ten times as heavy as those of grapefruit, fifteen times heavier than oranges, and fortyfold greater than lemons. New York City received almost as many cars of grapes in this single month as California shipped in an entire season 10 years ago.

The demand for "juice" grapes was very brisk until the supplies became exceedingly heavy about the middle of October. Heavy supplies, poor quality, and cold weather all at the same time slowed up the demand considerably and reduced prices. Since then the buyers have had things much their own way and many a "juice" grape purchaser has been able to get his seasonal supply at low prices.

One of the most outstanding features of the season has been the consistently high prices paid for the Alicante variety, generally considered the most excellent of all for wine making. This has sold at high prices even when table grapes and less desirable "juice" varieties were selling for less than freight charges.

With the 16,000 or more carloads of grapes which California shippers have provided there seems to be small prospect that the oasis of Manhattan will become a desert for a while at least.

Can one shut their eyes to these facts?

On the same subject:

[Los Angeles Times, December 17]

OREGON NEEDS CARS—CALIFORNIA GRAPE SHIPMENTS CAUSE DEARTH OF FREIGHT STOCK

Medford, Oreg., December 16.—Assertion that shipment of wine grapes from California had caused a fruit-car shortage in Oregon was made by B. W. Johnson, pear grower of Monroe, Oreg., at a meeting of the Oregon State Horticultural Society here to-day.

"The Volstead Act," said Johnson, "has so increased the shipments of wine grapes from California that the railroads can not keep up with the demand for cars, and therefore a car shortage in Oregon is almost inevitable.

"In 1923 California shipped 44,000 cars of grapes, and this year the State shipped 80,000 cars."

Is it not very much better, Mr. President—for we are all certainly for common-sense temperance or a temperate condition—to have a compromise law that will possibly bring that about than a prohibition law which does not prohibit, but invites discriminations and breeds defiance of law?

A moment ago I used the word "compromise." The Senator referred to the compromises year after year, leading up to the passage of the prohibition law, and how ineffectual they had been. With all the difficulties prior to 1920, Mr. President, with all the disappointments of the various compromises to that time, the situation in this country was in no way as bad as the situation to-day. You now have all the evils, if you frankly face the situation and admit the indisputable facts, of the days before prohibition—yes; and the saloons as well, only hidden from view—plus wide corruption in the public service, increased alcoholic insanity, increased drunkenness, home barrooms, and development among young boys and young girls of the use of the flask, never heard of before prohibition. You have all those evils and, in addition, a general disregard for law that threatens the very foundations of the Republic.

Yes; perhaps the attempted compromises leading up to the passage of the prohibition amendment were from time to time unsatisfactory; but the conditions, as bad as they were, were never comparable to the deplorable and intolerable conditions existing in this country to-day.

When I spoke on this subject a month ago I tried to be very conservative. I endeavored to present the situation with the hope I could encourage a recognition of this situation, with a consequent getting together and seeking a remedy. Stubborn insistence that nothing can be done or that the Volstead Act is a sacred document is not a statesmanlike way to meet this problem. I introduced the 2.75 bill because, as I clearly indicated, I believed that that was as far as we could go under the terms of the eighteenth amendment. However, in view of the decisions I have referred to as to wines and ciders, and now that every citizen is permitted to manufacture those beverages up to the point of proven intoxication, how can we in justice, without rank discrimination, refuse to permit another large proportion of our population who prefer a cereal or malt beverage to have just exactly the same privilege? Either give all the same privilege or none. Do not use the subterfuge you are protecting a few housewives with their preserving.

I will probably amend my proposal. I am prepared to eliminate the 2.75 per cent. I recognize that that is an arbitrary figure. I can name, and did name, many scientists who insisted that it is nonintoxicating to the average citizen. The Senator names others who insisted the other way. I am willing to use the same formula that the courts and the Department of Justice have accepted as to the other beverages and permit citizens to likewise brew malt or cereal beverages up to the same point of "proven intoxication."

How can you consistently deny that privilege to one large class of our citizens and permit other citizens to have a similar privilege?

The Senator from Washington read very rapidly in addressing the Senate this afternoon, and I may not have caught his meaning entirely, but I understood him to say that I was mistaken in the assertion I had made in my previous address that before prohibition went into effect this country was rapidly reaching a position where the people were not drinkers of hard

liquor and spirits. Only yesterday in my own State a representative of the Anti-Saloon League, Mr. Edward B. Dunford—their paid agents are on my trail very regularly and consistently these days—made a speech in northern New Jersey, and after expressing his compliments to the senior Senator in various ways for his address before the Senate a month ago, made this statement, or at least it appears in the press copy sent out for publication, and I assume he made it:

> Beer represented 90 per cent of the liquor traffic before prohibition.

If the contention of the Anti-Saloon League representative is correct, then I emphasize the statement I made before, that this country was rapidly becoming satisfied with malt and cereal beverages rather than becoming addicts of hard liquor. The defenders of this act should compare notes before taking the stump.

Mr. President, as I said at the outset, I am not going to take the time to go into details to-night. This subject has been introduced, not to provoke a controversy, but to try to find a remedy for one of the most serious public problems this Nation faces. I have approached it in that spirit. I propose to continue its discussion in that spirit. I will accept all these denunciations from paid agents of the Anti-Saloon League—many absolute, deliberate mispresentations—without paying much more than passing attention to them, if I even do that, because the problem is one of much more importance than an interchange of personalities.

When misrepresentations reach a point, however, so deliberate as one from Mr. Dunford's speech, I feel that, in the interest of the reforms we are seeking, some attention must be given. I quote:

> In the first vote in the House of the Sixty-ninth Congress, which wets proclaimed would be a test, the wets were able to muster only 17 votes to 139 for the drys, with at least 175 dry Members having left for the Christmas holidays.

This same statement was made recently by Mr. Wayne B. Wheeler.

This is a deliberate misrepresentation. One of the reasons we are having, and perhaps will continue to have, great difficulty in reaching a solution of this problem is the dissemination of these canards, sent out to the country with the hope they will impress the country. As a matter of fact and as a matter of record, an amendment was suggested to an appropriation bill in the House, the Treasury and Post Office bill, which provided, as I recall it, an appropriation of $250,000 to the prohibition department to secure evidence of violation of the law. The amendment was proposed by Congressman TUCKER, of Virginia, a man who, though I do not know him personally, I am told has always been a dry, if you wish to use the designating term of wet and dry, has always voted with the drys, and always counted on that side. He offered an amendment, I understand, because he felt it was contrary to public policy to buy evidence in the way it had been purchased by some of the prohibition officials.

Further, I am informed that many Members of the House who have been conspicuous in their opposition to the Volstead Act took absolutely no part in the House discussion, while, on the other hand, Members of Congress who had opposed the Volstead Act originally—Congressman MADDEN, for instance—voted for the appropriation and against the amendment, and yet this is hailed as a great dry victory.

Mr. BROUSSARD. Mr. President——

The VICE PRESIDENT. Does the Senator from New Jersey yield to the Senator from Louisiana?

Mr. EDGE. I yield.

Mr. BROUSSARD. If that be a test, I call the attention of the Senator to the fact that last year, when the appropriation bill for the Treasury Department was before us, this very amendment went through the Senate; from which it might be deduced that the Senate was entirely wet. There was no dissenting vote.

Mr. EDGE. So far as I am concerned, it will have my vote in the Senate when it comes here again, and it always has had my vote. I do not believe in fighting a law with which I may be in disagreement, by trying to prevent its enforcement. Quite the contrary. I will give the prohibition department, as I always have, every possible help. They can have all the appropriations, within common sense and reason, they ask for, in order that we can have perhaps all the sooner a real answer to the question whether this law is possible of enforcement.

Mr. Wheeler when he summed up the alleged advances made in the past year in enforcement of the Volstead Act stated:

> The popular approval of this policy of Government has been increased by the improved health of the Nation, the drop in drunkenness, crime, and alcoholic insanity.

Mr. President, how much better it would be if proponents of a continuation of this law without amendment would adhere somewhat to the facts. I am not going to read volumes of statistics which disprove this statement, but in view of an assertion made also by the Senator from Washington, and in view of this assertion in Mr. Wheeler's statement, and in view of the fact that Mr. Wheeler in a further statement issued only a day or two ago, summing up six years of prohibition, made an unqualified statement of decreased deaths, I wish to say that only yesterday I secured from the Department of Commerce, Bureau of the Census, a table dated January 15, 1926, signed by W. M. Steuart, Director of the Census, giving some statistics which I will give the Senate. In Mr. Wheeler's statement dated January 16, 1926, he said:

> The improved health of the Nation is registered in a decrease in the death rate from an average of 13.92 under license to 11.9 in 1924, according to the Census Bureau, with a still lower rate possible for 1925.

Senator JONES of Washington has twice repeated these figures.

I asked for only one report from the same bureau, because I thought that would be more conclusive than any other.

I asked if they had a record of the deaths reported to them in recent years from alcoholism. I thoroughly appreciate reports of arrest for drunkenness are properly subject to more or less question. But I do contend that if a doctor says in his death certificate or report that the death occurred from alcoholism, we certainly have a right to conclude it was from alcoholism. Anyhow, I wished to check up Mr. Wheeler's statement.

Mr. BROUSSARD. Mr. President, will the Senator permit an interruption?

Mr. EDGE. Yes.

Mr. BROUSSARD. I just wanted to inquire if the Senator had seen the testimony of Mr. Jones, of the Treasury Department, before the Subcommittee of the House Committee on Appropriations, page 359, where Mr. Jones said that last year there were more arrests for drunkenness than there were the year before?

Mr. EDGE. All of the information I have bears out that statement, Mr. Wheeler to the contrary notwithstanding. I do not think many others will dispute that statement.

Mr. BRUCE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New Jersey yield to the Senator from Maryland?

Mr. EDGE. I yield.

Mr. BRUCE. In this connection I would like to call the Senator's attention to some figures I got from the chief of police of the city of Washington to-day. The Senator will recollect that a short time ago I called attention to the fact that every year for a considerable number of years there had been registered a steady increase in arrests for drunkenness in the city of Washington.

In 1924 the number of arrests for drunkenness in Washington was 10,354. The figures that I obtained to-day from the chief of police of Washington show that the total number of arrests for drunkenness in the city of Washington in 1925 was 11,160.

Just one more interruption, and I will be done. I was waiting for the Senator to call attention to figures which have recently been given out by the United Press in regard to fatalities resulting from the use of poisonous liquor and alcohol in the United States in 1925. The dispatch of the United Press, under date of January 14, says:

> Poisonous liquor and alcoholism took a toll of 1,517 lives during 1925, according to figures received from 25 leading cities in the country.

This represents an increase of more than 400 over the figures of last year, which were obtained in practically the same cities.

Mr. EDGE. I thank the Senator. I repeat, this Census Department report has been the most appalling demonstration, so far as statistics furnish information, which has come to my attention and I assume will be accepted—alcoholism in one column, cirrhosis of the liver, which I presume is another form of alcoholism, in another—but I will not even read that. Under alcoholism there is a range of increase from 1920, the first year of prohibition under the Volstead Act, to 1924, the last year for which the figures are obtainable, which shows increases up to 900 per cent. Understand, this is the same Government bureau Mr. Wheeler quotes.

Just let me read a figure or two as an example. These figures are based on a population of 100,000, one death per 100,000.

In the State of California it goes from 35 in 1920 to 133 in 1924.

In the State of Connecticut it goes from 14 to 63.

In the State of Colorado it goes from 7 to 29.

In the State of Illinois it goes from 47 to 239.

In the State of Indiana it goes from 16 to 47.

In the State of Massachusetts it goes from 70 to 269.

Understand, this is per 100,000 inhabitants.

In the State of Minnesota it goes from 20 to 62.

In the State of Missouri it goes from 14 to 101, something like 700 per cent, as I figure it hurriedly.

In the State of New Jersey, my own State, it goes from 28 to 136, not a greater proportion than in some of the others.

The State of New York, 123 to 569; the State of Tennessee, 21 to 24; the State of South Carolina, 8 to 22; the State of Rhode Island, 8 to 52; and so on.

Mr. President, I think these figures should be impressive. How can Anti-Saloon League officials deliberately deceive in this indefensible manner? These figures must demonstrate to all the sincere—and I know they are sincere; certainly the Members of this body are, though I would not say so much for some others outside—to every sincere proponent or defender of the act as it is—the deception practiced. If the death rate has decreased, certainly prohibition did not contribute to that result, but, on the contrary, greatly added to the death toll.

I insert this table of deaths from alcoholism and cirrhosis of the liver from 1920 to 1924, inclusive:

Deaths per 100,000 population from alcoholism and cirrhosis of the liver

Area	Alcoholism					Cirrhosis of the liver				
	1924	1923	1922	1921	1920	1924	1923	1922	1921	1920
Registration area, exclusive of Hawaii	3,155	3,148	2,467	1,611	900	7,344	7,027	6,977	6,598	6,241
Registration States	3,098	3,112	2,424	1,573	873	7,220	6,916	6,854	6,453	6,102
California	133	109	107	70	35	433	380	389	352	331
Colorado	29	37	41	31	7	62	53	62	54	39
Connecticut	63	57	28	23	14	88	110	110	99	94
Delaware	13	12	14	4	2	26	12	18	18	12
Florida	47	38	43	29	19	97	108	107	87	70
Georgia	55	54	75	(1)	(1)	120	105	112	(1)	(1)
Idaho	8	13	10	(1)	(1)	14	17	11	(1)	(1)
Illinois	239	285	206	125	47	623	687	658	551	565
Indiana	47	49	52	33	16	287	251	282	285	287
Iowa	29	38	(1)	(1)	(1)	123	118	(1)	(1)	(1)
Kansas	16	17	23	14	13	122	107	96	125	112
Kentucky	40	40	24	32	10	134	104	139	130	100
Louisiana	24	23	22	19	9	166	163	181	174	160
Maine	18	13	17	16	10	32	47	50	34	34
Maryland	80	86	45	29	10	104	102	105	92	91
Massachusetts	269	267	233	126	70	221	208	231	210	210
Michigan	156	210	142	85	57	284	309	275	289	309
Minnesota	62	80	65	43	20	138	141	121	146	116
Mississippi	8	18	11	11	6	104	88	71	75	89
Missouri	101	99	79	35	14	325	313	354	319	274
Montana	15	25	22	19	10	42	29	37	35	37
Nebraska	20	24	12	15	6	87	85	71	67	59
New Hampshire	17	25	23	12	8	31	24	42	41	33
New Jersey	136	134	109	50	28	354	305	297	277	248
New York	569	469	309	164	123	1,028	912	997	956	872
North Carolina	41	24	26	35	27	93	100	108	102	96
North Dakota	7	(1)	(1)	(1)	(1)	20	(1)	(1)	(1)	(1)
Ohio	128	142	162	126	69	503	488	493	485	526
Oregon	21	15	25	21	13	56	51	47	53	50
Pennsylvania	389	389	255	196	104	832	859	753	733	705
Rhode Island	52	42	30	20	8	47	51	31	58	38
South Carolina	22	16	16	13	8	61	39	58	47	45
Tennessee	24	31	27	33	21	66	70	83	99	93
Utah	11	10	8	8	5	18	28	21	25	16
Vermont	10	13	13	6	5	11	18	20	32	22
Virginia	37	51	50	43	18	130	125	123	113	103
Washington	42	45	37	38	35	84	63	61	75	57
Wisconsin	79	77	49	43	21	213	202	200	186	188
Wyoming	20	17	8	(1)	(1)	12	9	10	(1)	(1)
District of Columbia	23	18	6	6	5	29	35	30	29	21

[1] Nonregistration; admitted to the registration area at a later date.

If those who represent or essay to represent the Anti-Saloon League, who seem to designate themselves the protectors of the Volstead Act and who place it in a position beyond criticism or amendment, would adhere to facts when defending this sacred measure, perhaps there would be less reason for misunderstanding.

This should forever dispose of claims of fewer deaths through prohibition.

Yes, Mr. President, I am also in favor of a modification of the eighteenth amendment, which we can not, of course, provide through legislation. But in view of the length of time necessary to bring that about I contend that we have no moral right to continue the discrimination that is so apparent under the recent decisions of the courts of the land and acquiesced in, naturally and properly, by the Department of Justice. I wish some of our friends who deem this act sacred would be as generous as some of the others who originally were proponents of the most drastic Volstead Act and absolute prohibition, but who have been—what shall I say; fair enough?—I do not like the term; but who have recognized the situation as it exists?

Let me read from the real leader and originator of the prohibition movement in this country, at least in our day and generation, known as "Pussyfoot" Johnson. His name is William E. Johnson. He is a man whom I admire immensely, a man who I am confident in his early interest in this work was trying to bring about real temperance rather than impossibilities. This is what he said, according to the New York World of Sunday, January 10, following his arrival in this country after a visit abroad:

> Some good men drink and some do not. Drinking is a matter of personal taste. A man has a right to drink if he pleases and can obtain the necessary liquor.

I do not mean to say for one moment that Mr. Johnson in any way means to infer there that the law should be broken. He said later:

> My whole effort now is directed toward stopping the promiscuous sale of liquor. I think society as a body has a right to protect itself from rum sellers, who let children, chronic drunkards, and other irresponsible persons obtain their wares.
>
> When asked whether he thought the present prohibition laws of this country protected these irresponsible persons any more than the laws which licensed unscrupulous persons to distribute liquor before the Volstead Act was enacted, he pondered for some time and then refused to answer point-blank.

He recognizes the problem. He is not satisfied to say that the Volstead Act is a sacred document, and that the Members of Congress who are trying to find a remedy are in league with the underworld and defying and tearing down the Constitution.

Is it a nullification of the Constitution to try to make the Volstead Act comply with the Constitution? I ask that question.

The bill I have introduced proposes that very thing. If it does not comply with the Constitution, then of course, when referred to the Supreme Court of the United States, as it naturally would be if it became a law, they, and they alone, would have the power to say whether it was unconstitutional or otherwise. Why fear a reference to the Supreme Court of the United States? If, as the Senator from Washington [Mr. JONES] contends, 2.75 per cent alcoholic content is intoxicating, then we need have no fear, because I assume that the Supreme Court of the United States would so decide. If a spirit of reasonableness, that we sometimes have heard of at least in recent years as having considerable influence on the decisions of the Supreme Court, entered into their deliberations they might conclude that the act could be so amended within the meaning of the eighteenth amendment, and that it might alleviate the spirit of protest and challenge, and that the country would not go to the merry bow wows so far as the drink habit is concerned, by trusting our people just a little bit more than we trust them now.

Mr. BRUCE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New Jersey yield to the Senator from Maryland?

Mr. EDGE. I yield.

Mr. BRUCE. Apropos of what the Senator said about the increase of drunkenness among young persons, I would like to call attention to an extract which I have taken from the Akron Beacon-Journal, published at Akron, Ohio, in the State represented in this body by our friend, the senior Senator from Ohio [Mr. WILLIS], who took such a very active part in one of the earlier discussions at the present session on the subject of prohibition. The extract is in these terms:

> JUDGE SAYS PROHIBITION CAUSES MORE INTOXICATION OF JUVENILES
>
> "Inability of the prohibition law to enforce prohibition is causing an increase in the number of young boys and girls who become intoxicated," declared Judge H. C. Spicer Wednesday in juvenile court when two boys, aged 15 and 16 years, were before him on charges of delinquency. They had been intoxicated on an automobile ride.
>
> "During the past two years," said Judge Spicer, "there have been more intoxicated children brought into court than ever before. Prohibition, it seems, makes procuring of intoxicants by children an easy matter."

MORE FAMILY MISERY

"Prohibition, judging from the experience of this court, is also making misery for wives and children of drunkards. Complaining wives and mothers come in here almost daily saying that before prohibition their husbands did not become intoxicated.

"Every session of juvenile court finds at least one boy arraigned on charges of intoxication, and frequently there are young girls. They believe it smart to obtain liquor in violation of the law, become intoxicated, and take joy rides. This is also causing the ruin of many innocent girls. Licensed saloon keepers refused liquor to minors because they feared their licenses would be revoked, but now the boys and girls get it easily. Liquor is more common in the households than it was in the days of the licensed traffic."

Mr. EDGE. Apropos of the interruption of the Senator from Maryland, which I welcome, in referring to our distinguished colleague, the Senator from Ohio [Mr. WILLIS], I ask permission to place in the RECORD a statement inserted in the RECORD a year ago by that Senator. I wish to bring it forward as part of my remarks to illustrate the point I am immediately going to touch upon. The statement is a report of the necessity of increased Federal prison facilities because of the overcrowding of the three Federal prisons at Atlanta, Leavenworth, and McNeil Island. As a matter of fact, there were more prisoners than they actually had accommodations to take care of at that time. The statement was introduced by the Senator from Ohio on the occasion of the consideration of a bill to provide for another prison or reformatory, and it apparently so impressed the Senators that the bill passed providing quite a large appropriation and, as I recall it, without a division. I ask permission to insert that statement in the RECORD in connection with my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The statement is as follows:

The number of Federal prisoners has been increasing so rapidly that the limit of accommodations in the three Federal penitentiaries has already been exceeded. The normal capacity of the three penitentiaries is 4,935 men. On January 8, 1924, there were actually in confinement 5,558 prisoners, an excess of 628 men. Physicians state that this overcrowding makes adequate hygenic measures difficult and endangers the health of the prisoners. Additional overcrowding will further jeopardize the health of the inmates. Overcrowding also presents a grave problem in morals and discipline. Aside from these considerations, however, unless additional accommodations are provided within the next few months the Government will be in the anomalous position of convicting men with no place provided for their incarceration. This will be clearly seen from the following facts and figures:

The population of the three Federal penitentiaries increased from 2,340 on June 30, 1912, to 4,296 on June 30, 1921, and to 5,616 on June 30, 1923, a gain of 166 per cent in 11 years and a gain of 30.7 per cent in two years. Stating the same facts in a different manner, there was a daily average of 1,985.7 prisoners confined during the fiscal year 1912. In 1921 this daily average increased to 3,792 and in 1923 to 5,323.29, a gain of 168 per cent in 11 years and a gain of 40.3 per cent in the last two fiscal years.

Comparison of the actual number of prisoners in confinement on January 31, 1923, with the actual number confined on January 8, 1924, shows an increase of 373 men during that period. This number would have been augmented to 624 men except for the fact that, due to excessive overcrowding, 251 military prisoners were transferred to the disciplinary barracks of the War Department. On June 30, 1923, there were pending in the United States district courts criminal cases to the number of 67,534, and indications are that convictions during the present year will greatly exceed those in the last.

The necessity for another Federal penal institution is imperative. In establishing such institution, rather than make it another penitentiary, many considerations urge the establishment of a reformatory in which may be confined young male first offenders between the ages of 17 and 30 years. At the present time this class is confined in the overcrowded penitentiaries along with the older and hardened criminals. These youthful first offenders should by all means be segregated and subjected to separate treatment and special reformative methods.

The actual figures as issued by the Department of Justice are given in full as they appear in the CONGRESSIONAL RECORD of December 30, 1924, pp. 1044 and 1045.

First will be given the names of the Federal prisons and their normal capacity:

	Normal capacity
Atlanta (Ga.)	1,970
Leavenworth (Kans.)	2,440
McNeil Island (Wash.)	525
Total	4,935

The various statistics are:

	Number of commitments during the fiscal year ending—		
	June 30, 1912	June 30, 1921	June 30, 1923
Atlanta	620	1,500	1,847
Leavenworth	553	1,046	1,482
McNeil Island	170	251	286
Total	1,343	2,797	3,615

	Number of prisoners remaining in prison—				
	June 30, 1912	June 30, 1921	June 30, 1922	June 30, 1923	Jan. 8, 1924
Atlanta	954	2,091	2,334	2,633	2,522
Leavenworth	1,165	1,907	2,671	2,506	2,496
McNeil Island	221	298	535	477	540
Total	2,340	4,296	5,540	5,616	5,558

Percentage of increase in number remaining in prison, 2 years (1921 to 1923):

Atlanta	2,638	−2,091 =	542, or 25.9 per cent.
Leavenworth	2,506	−1,907 =	599, or 31.4 per cent.
McNeil Island	477	− 298 =	179, or 60.1 per cent.
Total	5,616	−4,296 =	1,320, or 30.7 per cent.

Percentage of increase in number remaining in prison, 11 years (1912 to 1923):

Atlanta	2,633	− 954 =	1,679, or 176 per cent.
Leavenworth	2,506	−1,165 =	1,341, or 115.1 per cent.
McNeil Island	477	− 221 =	256, or 115.8 per cent.
Total	5,616	−2,340 =	3,276, or 140 per cent.

	Average daily population, fiscal year ending—			
	June 30, 1912	June 30, 1921	June 30, 1922	June 30, 1923
Atlanta	767	1,830	2,170	2,372
Leavenworth	1,083	1,721	2,243.7	2,473.16
McNeil Island	135.7	241	372.8	478.128
Total	1,985.7	3,792	4,786.5	5,323.288

Percentage of increase in average daily population, 2 years (1921 to 1923):

Atlanta	2,372	−1,830 =	542, or 29.6 per cent.
Leavenworth	2,473.16	−1,721 =	752.16, or 43.7 per cent.
McNeil Island	478.128	− 241 =	237.128, or 89.3 per cent.
Total	5,323.288	−3,792 =	1,531.288, or 40.3 per cent.

Percentage of increase in average daily population, 11 years (1912 to 1923):

Atlanta	2,372	− 767 =	1,605, or 209.2 per cent.
Leavenworth	2,473.16	−1,083 =	1,390.16, or 128.3 per cent.
McNeil Island	478.128	− 135.7 =	342.428, or 252.3 per cent.
Total	5,323.288	−1,985.7 =	3,337.588, or 168.1 per cent.

Ponder over the following portion of the "number of prisoners remaining in prison on January 8, 1924." All under prohibition, of course.

Number of first offenders between ages of 17 and 30, inclusive:

Atlanta	893
Leavenworth	745
McNeil Island	108
Total	1,746

One thousand seven hundred and forty-six out of a total of 5,558, or 31 per cent.

Briefly summed up, the facts appear thus:

First. United States prisons are housing 12½ per cent beyond normal capacity.

NOTE.—This would have been increased 251 military prisoners who were transferred to the War Department on account of lack of room, so that the real percentage is in excess of 17½ per cent beyond capacity.

Second. One hundred and forty per cent increase in prison 11 years, 1912 to 1923.

Third. Thirty and seven-tenths per cent increase remaining in prison two (prohibition) years, 1921 to 1923.

Fourth. Forty and three-tenths per cent increase in average daily population in the two prohibition years above named.

Mr. EDGE. In contrast with the above, I wish to quote from a statement by Mr. R. V. Johnson, field secretary of the board of temperance, prohibition, and public morals of the Methodist

Episcopal Church, in our own city of Washington, D. C., in which he said:

Prohibition has not increased crime or lawlessness in this country. To prove this fact we have only to look at the records of the prisons of this country. We find that prison population in the last 5 years has decreased over 50 per cent, that arrests for drunkenness have decreased more than 60 per cent, and arrests for nonsupport of families and cruel and inhuman treatment have decreased over 75 per cent.

That is the type of propaganda that men who sincerely want to find some remedy meet day after day. Absolute contradictions. Wayne B. Wheeler and Reverend Johnson issue statements of that kind, disputed by men who are in their own ranks.

The reversal of feeling to which I referred a few moments ago on the part of those who were originally proponents of the act, after six years of observation, to me is one of the developments that make it encouraging that we will find a solution. Everyone knows, or knows of, Rev. Sam Small, the veteran temperance lecturer and evangelist. He has spent his life in the service. He attended the last session of the Anti-Saloon League in Ohio. I will not read his statement because Senators have probably seen it, but I ask permission to have it printed in the RECORD as a part of my remarks.

The PRESIDENT pro tempore. Without objection, permission is granted.

The statement is as follows:

[From the Minute Man]

A PROHIBITIONIST CONFESSIONAL

(By the Rev. Sam W. Small, veteran temperance lecturer and evangelist, in the New York World November 29)

I am not satisfied with national prohibition "as is."

It is not the prohibition that I have publicly contended for during 35 years, from 1885 to 1920.

It is not the prohibition that I have shed my body's blood for on eight occasions during those years.

The present status of prohibition under the eighteenth amendment and the Volstead Act, after over five years of so-called national enforcement, is a bitter disappointment of the faith that led to their enactment.

Fresh from attendance upon the biennial national convention of the Anti-Saloon League of America and from hearing the expressed views of antisaloon leaders, governors and ex-governors of States, Senators and Representatives in the Congress, active officials of the Federal Prohibition Unit, bishops of churches, judges and prosecuting attorneys, editors of great newspapers, and women of reform organizations, I am deeply impressed by the continuity of the question, "Will prohibition prohibit?"

The problem as presented now by the prohibition leaders is how to obliterate the traffic in and use of alcoholic intoxicating liquors "root and branch," as they put it, from the daily business and habits of the American people. All of the advocates of that policy frankly admit that it is one of the largest contracts ever undertaken by a self-determining Nation through the agencies of civil government. They hold that the presence of the prohibition amendment in the Constitution of the Republic, affirmed as properly there by the Supreme Court of the Nation, is conclusive evidence that a majority of the people wish that prohibition policy exploited to its fullest limits.

But the holding of this latest "crisis convention" in Chicago this month, in advance of the convening of Congress in December, was to advertise how far the enforcement of the prohibition law has failed up to date to secure desired effect, to locate responsibility for the failure, and then to propose agreed-upon remedies for the unsatisfactory condition.

Conferences between those concerned in the convention's objectives revealed that some of them are coming to realize that probably national prohibition was brought into law and action before the people were fully prepared to enforce it. One of the outstanding leaders of the cause on the floors of the Congress said so much to this writer at the convention and explained the reasons that have brought him to that conclusion.

The prohibition policy was winning its way by State adoptions in all sections of the Union. Thirty-two States, by constitutional amendments or legislative action, had provided for state-wide prohibition before the eighteenth amendment was submitted to the States. One other State, Kentucky, adopted the state-wide policy while the amendment was yet pending and unratified.

But there were 15 States, among them those of the largest populations, that had not adopted the policy, and some of them had but recently rejected it by large popular majorities. Hence the belief still prevails with many prohibitionists that the blanket national policy was applied too soon. The answer of the more ardent prohibitionists is to point to the ratification of the amendment by the legislatures of 45 of the 48 States within the short period of 13 months. Also that among the ratifying States were the largest in population, such as New York, Pennsylvania, Ohio, and Illinois. Only New Jersey, Connecticut, and Rhode Island failed to ratify; and New Jersey has since done so. It is upon that record that radical prohibitionists stand and, with the difficulty of amending the Federal Constitution back of them, declare with every sense of certainty that the amendment will not be repealed within any calculable time.

I have found some sincere believers in the prohibition policy who yet think the steps taken by the antisaloon people in framing the amendment and in legislating to enforce it were beyond the original objectives for which the league was formed and supported.

The name "Anti-Saloon League" was clearly indicative of the work it was organized to accomplish. That was to suppress the legalized, licensed dramshop. It was generally denounced as the source of drink evils and the generator of crime, poverty, and a host of social evils. It was constantly in the public eye, and its products constantly in the courts, the prisons, and the poorhouses.

For over a hundred years of our national history legislative skill and social wisdom had been taxed to find safe and tolerable restrictions that could be imposed on those institutions, and without satisfaction. Promoting, multiplying, and magnetizing saloons became the joint enterprise of liquor profiteers and liquor politicians. They jeered at every sentiment of national sobriety and bludgeoned every demand for social safety and decency. To save their existence and business they fought the antisaloon proposition with every weapon and bitterness, and eventually forced the religious and temperance people to fight for drastic national prohibition.

The earliest proposals to amend the Federal Constitution and establish a national prohibition policy—such as those by Blair, Plumb, Ballon, and others, in the seventies and eighties—dealt almost exclusively with ardent spirits, with distilled liquors, native and foreign, and would not have affected fermented beverages of ordinary type. The movements of that day aimed at "hard liquors." Indeed, they were then disposed to agree with the earlier view of Thomas Jefferson, that mild brews would be a panacea against fiery liquors. But the friends of the liquor trade fought those propositions with as much vehement bitterness as they now do the Volstead Act itself.

It should be remembered that when Congressman Richmond Pearson Hobson presented his famous prohibition amendment in 1914 he was hilariously ridiculed in and outside of Congress, by publicists and by press, for restricting prohibition to the "sale" phases of the liquor traffic. The wording of his proposed amendment was:

"The sale, manufacture for sale, transportation for sale, importation for sale, of intoxicating liquors for beverage purposes in the United States and all territory subject to the jurisdiction thereof, and exportation thereof, are forever prohibited."

Such eminent opponents as Congressmen Mann, Underwood, Henry, Gallivan, Carlin, and a score of others derided the repetitions "for sale" in the resolution and declared there could be no genuine prohibition upon those terms; that it really would set up a "free liquor" régime, because it would leave every one free to distill and brew his own liquors; and that under this Hobson plan there would be universal drunkenness without regulations or restraints.

In reply to the savage attacks made upon his proposition Congressman Hobson stated that he and those whom he represented did not believe the Federal Government should be empowered to go further than to control and prohibit "the commercial features of the liquor traffic." "The people have the right," he said, "to determine what manner of manufactures and commerce they will permit within the Nation, but there are ancient and inalienable rights which they may not deny and prohibit."

When he was challenged to name those indefensible rights, Hobson said:

"The object of forbidding the sale is to avoid even a suspicion of any desire to impose sumptuary legislation upon the American people or to invade the rights of the individual and the home."

On the floor of the House of Representatives he again declared:

"I want my colleagues to understand from the start, and, so far as we can have them, the American people, that there is no desire, no intent on the part of this resolution to invade either the individual rights or inherent liberties of the citizen, or to climb over the wall that civilization—particularly the Anglo-Saxon civilization—has built around the home."

Because it was pronounced "a free-whisky measure" the Hobson resolution failed to carry in Congress. It was the tenor of the criticisms launched against it that forced the prohibitionists to frame the Sheppard-Webb amendment in the comprehensive terms it now carries in the Constitution.

Those are the facts of history which explain why the Anti-Saloon League changed its plan of campaign from a crusade against the saloon to a drive against every phase of legalized beverage liquor commerce.

This writer, as one of the head-line speakers of the amendment campaign, made thousands of speeches in churches and to other assemblies, repeating everywhere the assurances contained in the quotations from Hobson. All of us strenuously combated the charge that we sought to deny the individual citizen his right to have and drink

what he pleased; we only denied that any man had an inalienable right to run a barroom and conduct a commercial manufactory of drunkards. Such was our main argument, and with it we won millions of voters to support the proposition of decommercializing the drink traffic.

On the other hand, the opponents of national prohibition predicted that our success would remove all regulatory restrictions upon the traffic; that moonshining, bootlegging, and smuggling would be enormously increased, and that the transfer of police power from the States to the Federal Government would tremendously increase the mechanism and expense of enforcing all antiliquor laws.

All those predictions, at which we hooted, have come true. The convention at Chicago was a great wholesale complaint against just those evil results.

No one present there ventured to deny that moonshine stills and bootleggers cover the country as the locusts did the land of Egypt. While most of the States have adopted enforcement acts in concurrence with the Volstead Act, nevertheless the authorities in charge of them have almost wholly looked to the Federal officers to detect, chase, capture, and convict the violators of the law.

When that condition was forecast in the debates over the amendment in Congress, the reply of its friends was that the States, to prevent being overrun by Federal foreign spies, snoopers, and enforcement officers sent out from Washington, would be foremost in the use of their own officers and in securing to themselves the fines, forfeitures, and convicts from prohibition enforcement.

But all those local benefits have not been experienced. On the contrary, the Federal forces have been planted all over the country and have sought, for either honest or dishonest purposes, to take entire charge of prohibition enforcement.

The consequence has not only been a flood of official scandals, evidences of corruption, instances of unwarranted outrages upon private rights, and the demonstration that the Volstead Act is practically unenforceable in its present terms and with all the machinery possible for the Federal Government to employ. Hence the silly demands we hear for more drastic legislation and the use of the armed forces of the Nation.

I am a 100 per cent prohibitionist. I was whole-heartedly in the fight years before the present leaders got actively into it—even before some of them were born, and eight years before the Anti-Saloon League was founded by Dr. Howard Hyde Russell in Ohio. No man can discount or deny my devotion to the cause, and I want now what I have wanted for these 40 years; that is, the abolition of the liquor saloon, and in nearly all the States that is now accomplished. Secondly, the suppression of the manufacture and transportation and importation of intoxicating liquors for beverage purposes.

Those two objectives constitute the heart and lungs of the eighteenth amendment. Unfortunately, in my judgment, the Anti-Saloon Leaguers have gone far beyond those original objectives and have used their influence to enact laws that are designed to control every act relating to liquor, however private, personal, and even permissible under the terms of the law.

When the eighteenth amendment was being framed it was strenuously urged to use in it the words "alcoholic liquors" rather than "intoxicating liquors," but on the committees of Congress who handled the amendment there were able lawyers and ex-judges who saw both the injustice and the futility of attempting to outlaw every kind of liquor that contained any percentage of alcohol. They said in plain speech that the chief purpose in setting up national prohibition was and is to delegalize the making of and commerce in liquors that are generally and necessarily "intoxicating."

In other words, at that time the whole avowed purpose of those who were promoting the amendment was to put a national stamp of illegality upon liquors of any kind that are actually "intoxicating." It was acknowledged that whether any particular liquor is classifiable as "intoxicating liquor" is a question of fact, dependable upon convincing proof, and is not a matter of opinion—not whether Wayne Wheeler or Sam Small or any other person thinks it is "intoxicating." It is an issue to be determined by expert definition, by cumulative human experience, and by the testimonies coming from courts and corrective institutions.

For instance, the issue has been presented in the House of Representatives by the introduction of 58 separate bills to legalize the manufacture and sale of 2.75 per cent beer in such States as may elect to have it, on the ground that such beer is not an "intoxicating liquor."

The proponents of those bills say such beer is not "intoxicating" in fact, and therefore should not be included in the prohibition of the eighteenth amendment. The opponents of those bills contend that such beer is "intoxicating." But who knows positively, irrefutably, whether it is so or not?

I have for five years sought every available authority and evidence on that question, and yet I do not know whether or not 2.75 per cent beer is necessarily and invariably "intoxicating." But I want to know the truth about it and am ready to welcome any investigation that will get that truth and establish it incontestably.

I find all over the country men who are as pronounced prohibitionists as myself who are anxious to have that question finally settled. They, like myself, do not believe that the Volstead standard that any liquor with more than one-half of 1 per cent alcohol content must be accounted "intoxicating" is either true or reasonable.

It is the insertion of that drastic and irreducible minimum of alcoholic content that has caused millions of men in America to pronounce the standard a "palpable lie on its face" and to resist or condone those who do resist such a definition of an "intoxicating liquor."

The answer of the Anti-Saloon Leaguers and dry legislators is that "the law does not say that any liquor with more than one-half of 1 per cent of alcohol is, in fact, intoxicating," but they hold that there must be a base line of alcoholic content from which to project enforcement, and that one-half of 1 per cent alcohol content has been found in State experience to be the most ascertainable and feasible standard for enforcement purposes.

The reply made to that is the double one that while one-half of 1 per cent may be feasible for taxation it is not indubitable for intoxication; and, second, what a State establishes as a standard for itself is not to be generally accepted as an incontestable standard.

There were men who have been long in Anti-Saloon League service and are yet, but will not consent to be personally quoted and so "get in bad" with their league leaders, who are puzzling over "the way out" of the present conditions of law defiance, official derelictions and corruptions, and the broken hopes of those who brought prohibition into the national policy. Incidental benefits to individuals, families, industries, and morals they publish and emphasize, but the criminal increases, the perjuries, murders, moral poisoning of officials, judicial truculencies, and social demoralizations they do not attempt to deny and deplore.

Unless I have utterly lost all of my half-century experiences as a newspaper man and evangelist in gauging public sentiment, I can say with surety that the discontented public, whether for or against prohibition per se, is anxious to have a thorough and honest investigation of the present status of prohibition and how to make it enforcible and satisfying.

Congress and the friends of the eighteenth amendment should cease to camouflage actual conditions and face them frankly and fearlessly, seeking and applying whatever solution may be found rational and constitutional.

This question of why prohibition is not being effectively enforced is the most universal and acute issue being discussed by our American people and press. It is up to Congress to find out the answer and legislate upon the facts to the satisfaction of the people.

Congress and the people know that both personal and partisan politics have honeycombed and rotted the national enforcement service from the hour that the Prohibition Unit was formed in the Treasury Department after the enactment of the Volstead law. I have inquired into the operations of the unit in more than 20 States and found in all of them the agreement that lax enforcement and immunities for lawbreakers are almost wholly owing to the power of politicians to nominate and control the enforcement officials. This is capable of irrefutable proof—but will Congress dare to bring it to the surface and cure the corrupting evil by divorcing prohibition enforcement from all political control? I doubt it.

Another thing that persons who want practical prohibition and whose jobs, personal or political, are not dependent upon the Anti-Saloon League, would ask of Congress is a full and comprehensive investigation of the 2.75 beer proposition. What they want Congress to find out definitely and finally is whether that sort of beer is or is not "intoxicating," and deal with the subject accordingly. In plain words:

If such beer is intoxicating, keep it under the amendment ban;

If it is not intoxicating, let those States have it that want it, but rigidly prohibit them from exporting it into other States that do not want it.

The charge by the Anti-Saloon Leaguers that such action would be "a surrender to the outlaws" is pluperfect poppycock. The demand for a decision of this widely mooted question is not influenced by what brewers, beer-suckers, bootleggers, or booze politicians want. Their outcries are negligible and, taken en bloc, would get no attention or response from any type of prohibitionists. Certainly, they do not affect me.

The demand comes, in fact, from those who want that truthful and reasonable legislation that will make prohibition appeal to the honesty, loyalty, and law-abiding spirit of the commonality of our American citizens. Until we can get that popular reaction, prohibition will be a delusion and a failure.

Mr. EDGE. When Reverend Small said, "It is the insertion of that drastic and irreducible minimum of alcoholic content," referring to the one-half of 1 per cent, "that has caused millions of men in America to pronounce the standard a palpable lie on its face and to resist or condone those who do resist such a definition of an 'intoxicating liquor,'" he stated a palpable truth. As the article shows, he then went on to demonstrate his point in a very strong statement.

Mr. FESS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New Jersey yield to the Senator from Ohio?

Mr. EDGE. I yield.

Mr. FESS. Does the Senator mean that Reverend Small is indicting the present Volstead Act? That statement sounds like it.

Mr. EDGE. I certainly assume that to be the intention of the article, which the Senator from Ohio has probably read.

Mr. FESS. No; I have not read it. It is quite surprising to me.

Mr. EDGE. The Senator will find that the entire article is in the same strain as the sentence which I have just read from it.

Mr. FESS. I know Reverend Small and have heard him many times, but I never heard him make any such statement as that.

Mr. EDGE. I read from his statement exactly as it appeared in the New York World.

Again demonstrating the recognition and realization of man after man who originally enlisted in the forces, who thought we could prohibit in this country, the Rev. George W. Sandt, of Philadelphia, the new president of the Lutheran Ministerium, which, as I understand it, is an organization of which the various Lutheran churches of the eastern district are members. I ask permission to place in the RECORD a statement from the Philadelphia Inquirer of Saturday, January 9, regarding his utterances at that time.

The VICE PRESIDENT. Without objection, it is so ordered.

The statement is as follows:

BOOTLEGGER WORSE THAN THE SALOON, DR. SANDT ASSERTS—THINKS VOLSTEAD ACT SHOULD BE MODIFIED TO RELIEVE SITUATION—NEW HEAD OF LUTHERAN MINISTERIUM URGES OBSERVANCE OF LAW, HOWEVER

Although it is the duty of every Christian citizen to obey the eighteenth amendment, prohibition has brought with it something far worse than the saloon, the bootlegger, Rev. Dr. George W. Sandt, the new president of the Lutheran Ministerium, declared yesterday after his election to succeed Rev. Dr. H. A. Weller, who was buried yesterday.

Doctor Sandt is the editor of the Lutheran, the official organ of the National Lutheran Church, with offices at Thirteenth and Spruce Streets. He was elected ad interim president by the executive committee of the ministerium, which met yesterday.

"Congress should modify the enforcement law," Doctor Sandt continued in discussing prohibition. "But while the law is on the books it is the duty of every Christian citizen to obey it and to have nothing whatever to do with those whose policy it is to flout it.

"The law is entirely too drastic. I do not believe that one can reform society effectively by legislation. Now that the law is passed I would be the last one to disregard it or urge its repeal at this time unless there existed something better as a substitute.

"The eighteenth amendment has brought us something far worse than the saloon in the creation of the army of criminal bootleggers. If one could see a way to modify the present law it would greatly improve conditions.

"I can not see a way out myself, but I have constantly hoped that some bright legislator or statesman would solve the situation."

ACCEPTS POSITION UNTIL SEPTEMBER ONLY

Doctor Sandt most emphatically declared that he accepted the position only until September and under no condition would he be a candidate when the regular election is held at the meeting of the ministerium next June in Allentown.

The new president is conservative in theology. The merger of the two Lutheran synods whose jurisdictions overlap in this city and throughout this section of the State, he feels is not yet advisable, because of the problems now existing.

The two synods are the ministerium, which is generally considered to be the most conservative in the country, and the synod of eastern Pennsylvania, which is held to be the most liberal.

Doctor Sandt has been editor of the Lutheran since 1896 and has written several books on historical subjects, and also some dealing with the problem of church unity. He was a delegate to the Lutheran World Conference in Sweden in 1911 and to the League to Enforce Peace, which met in Washington in 1915. As president of the ministerium he will have jurisdiction of over 600 churches.

Rev. Dr. J. H. Waidelich presided as chairman of the committee yesterday.

Mr. EDGE. I agree with every word he uttered. Another clergyman, Right Rev. Charles Fiske, Protestant Episcopal Bishop of Central New York, wrote a recent magazine article, an excerpt from which I ask permission to have printed in the RECORD without reading.

The VICE PRESIDENT. Without objection, permission is granted.

The article is as follows:

[From the Minute Man]

A CLERGYMAN WITH COURAGE

Right Rev. Charles Fiske, Protestant Episcopal Bishop of Central New York, in a recent magazine article wrote:

"The paid uplifter and reformer is a nuisance and many a good cause has been ruined by his pernicious activity. Nowhere has the evil of such commercialized service been more serious than in the churches. For a time all of them were hypnotized into engagement of social service 'experts.' These experts were hired and fired. Most of them had to 'make their own jobs,' and in endeavoring to magnify their office they stuck their busy fingers into other people's pies until the synods and conventions which engaged them were tried to the limit. Often they were parlor socialists or doctrinaires who plunged their ecclesiastical organizations into unauthorized action in legislative halls and committed them to poorly digested programs of social, economical, and industrial reform.

"Ecclesiastical counselors to State legislatures, amateur advisers in industrial relations, and youthful critics of the present economic order were so numerous that one could not shake a stick at them collectively, much less hit them individually on the head.

"Among Protestant denominations of the more violent type paid secretaries and reform organizations became a menace as well as a nuisance. Good men have mourned over their activities and the people who are not naturally pious have been driven from indifference to bitter antagonism. They have engineered political blocs, forced through laws which only a small minority desired, held up legislation by demands for social and industrial reforms which could not be enforced. They have hung like hornets about the heads of legislators until the better type of politician has retired to private life and men of the baser sort have been pushed into the making of laws which they themselves do not obey and in whose real worth they have never had any faith."

Mr. EDGE. The Rev. Alfred Duncombe, pastor of the First Reformed Church, in an address to the Long Branch Rotary Club, made certain statements, a newspaper item with reference to which I ask permission to have printed in the RECORD without reading.

The VICE PRESIDENT. Without objection, it is so ordered.

The statement is as follows:

DRY LAW MAKES CRIMINALS, PASTOR TELLS THE ROTARIANS

LONG BRANCH, December 18 (A. P.).—The Rev. Alfred Duncombe, pastor of the First Reformed Church, in an address to the Long Branch Rotary Club to-day, said that prohibition was in many respects the worst thing that could have come to pass in America.

He asserted that he had been unable to discover any passage of the Bible directly teaching prohibition, but concluded his address with an appeal for law enforcement.

Prohibition, the minister remarked, had brought on an era commonly referred to as the "Flask age." The law had made large numbers of formerly law-abiding citizens criminals, he added.

Assailing the principle of the statute throughout his address, the Rev. Mr. Duncombe advised his hearers, however, that since it was a part of the Constitution of the United States, every loyal and patriotic citizen, despite his personal feeling about its merits, must do all in his power to aid in its enforcement.

Mr. EDGE. Dr. Copeland Smith, pastor of the Grace Methodist Episcopal Church, of Chicago, in an address on the subject, "Why is Chicago more criminal than London?" made a similar criticism of the law, which I desire to have printed in the RECORD, without reading.

The VICE PRESIDENT. Without objection, it is so ordered.

The statement is as follows:

[From the Peoria (Ill.) Transcript, November 24]

A COURAGEOUS METHODIST

Dr. Copeland Smith, pastor of the Grace Methodist Episcopal Church of Chicago, in an address on the subject, "Why is Chicago more criminal than London?" explains that one reason is the attempt to enforce prohibition in a community where a considerable portion of the citizenship is opposed to laws against the use of intoxicants.

This position, unique for a Methodist minister, is the result of a lifetime in the pulpit, spent in London and Chicago. Amply experienced to understand and explain slum life in both cities, the Reverend Doctor Smith feels sure the Britisher is naturally more law-abiding than the American and more reluctant to make criminal laws until sure they are the unexpressed will of the masses.

"The phlegmatic Britisher," Doctor Smith continued, "is not yet persuaded that England is ripe for prohibition. If the majority in England should vote for prohibition, they would aid in its enforcement. However, I think in such a case there would be an increase in crimes of violence by those who would resist the law."

Mr. EDGE. Dr. R. D. Linhart, the pastor of Faith Evangelical Lutheran Church, of Detroit, two or three weeks ago preached a similar sermon, which was widely printed in the press of the country. I ask permission to have it inserted in the RECORD at this point.

The VICE PRESIDENT. Without objection, it is so ordered.

The matter referred to is as follows:

DETROIT PASTOR DENOUNCES DRY LAWS—SAYS CONDITION IS "APPALLING"—ASSERTS PROHIBITION HAS NOT BEEN AND CAN NOT BE A SUCCESS—LIKES ONTARIO'S SYSTEM

The belief that prohibition is not a success and can not be a success, and that Government liquor regulation on the Ontario plan would be best for the country, was expressed by the Rev. R. D. Linhart in his Sunday evening sermon at Faith Evangelical Lutheran Church.

"The eighteenth amendment to our Constitution prohibits the manufacture and the sale of intoxicating liquor," said Mr. Linhart.

"The passing of that law, of course, abolished the saloon—an institution that was a curse to humanity.

"But has this law forbidding entirely the manufacture and sale of intoxicating liquor worked successfully? Has it proved a blessing to our Nation? Has it prohibited the manufacture and sale of intoxicating liquor? If so, then we truly have prohibition. I wish that were the case. I think it would be the ideal thing. But I'm here to tell you to-night that prohibition has not been a success and that it can not be a success.

HIS INVESTIGATION

"In order that I might speak intelligently on this subject I've done some investigating. I've gone into some of our institutions where the real condition is to be found, and I've talked with the heads of these institutions and with some of the heads of the police department, and I want to tell you, my friends, that we have a condition resulting from our prohibition law that is appalling.

"The manufacture and sale of liquor is still proceeding on a larger scale and in a more destructive fashion than ever before. It is now a business of the underworld, with little restraint or control, and is bringing ruin and disgrace on our land.

"When Police Commissioner Croul said some time ago that there were at least ten times as many blind pigs operating in the city of Detroit as there were saloons formerly I'm fully convinced that he was right. Thousands of homes in our city have been converted into blind pigs, and the situation is going to be far worse unless something is done to stem this awful tide.

"As far, therefore, as prohibition prohibiting the manufacture and the sale of intoxicating liquor is concerned, the law is a failure. Moreover, I am fully convinced that it can not be a success, and I'll tell you why.

"The very Constitution of the United States recognizes and upholds the sacredness of the home, and rightly so. Every man's home is his castle, and there he is free to protect himself from anyone who would molest him in that home.

HOW IT WORKS

"But at the same time it makes impossible the enforcement of the prohibition law, for it gives protection to the bootlegger in his home. Thus, as one of the inspectors of the police department told me the other day, no officer dare force an entrance into the bootlegger's home without a search warrant from the court, and that can be granted only when there is positive proof given that liquor is being made and sold there.

"It is evident to me, therefore, that the prohibition law can not be enforced, and the sooner the American people recognize that fact, the better. Then we will be able to put something better in its place. And I hope that something will be done soon, for the existence of this law, which means little more than the paper on which it is written, has brought about a condition of disrespect for law that is deplorable, and which threatens to ruin the very foundation of the American Government.

"Public sentiment is not in sympathy with this law, and no law can ever be enforced that does not have the people back of it. The disrespect which the American people have for this law has bred a spirit of rebellion that is ready to disobey not only the prohibition law, but with it all American law, and I think that the awful crime wave that is sweeping our land is partly the result of it.

EFFECT ON HOME

"There is another condition which has resulted from the prohibiltion law, and that is its demoralizing effect. There ought to be no place on earth so sacred and so dear to us as the home. But what effect is it going to have on the countless number of young men and young women who are being reared to-day in homes that have been turned into bootlegging establishments? Not only is it going to train up a generation of drunkards, but it threatens to wreck the very foundation of all society, viz, the home.

"And there is another great evil which must be mentioned, and that is what we may term murder and suicide. The poisonous liquor that is being made and sold to-day is bleeding America to her death. Not long ago one of the heads of the police department told me that they raided a large still and they found about two wagonloads of empty boxes marked 'concentrated lye,' used in order to make their product work fast, in order to get it on the market in a short time.

"Brethren, I will not vote in favor of the bootlegger. The bootleggers want prohibition. It's going to mean millions for them, and it has made millionaires out of many of them.

"When we voted for prohibition perhaps it was the best way to put the saloon out of business. But now we must adopt a policy that will close up the blind pigs and put the bootlegger out of business.

"I repeat it, that prohibition is not the best solution. I am convinced that what the Christian citizen wants, what he is ready to back up, what is best for our country, and what is permissible in the sight of God is a modification of the present prohibition law, such as we have over in Ontario, Canada."

Mr. EDGE. Now, without referring further to the statements of ministers—and I have selected only a few in my possession—I should like to refer to some statements of law officers showing their experience. I believe that statements from such a source should have some effect on this body. The chief of police of the city of Indianapolis during the present month wrote an article in which he frankly admitted the impossibility of enforcing the law. Indiana, as I recall, has passed one of the most drastic prohibition laws—I think I am correct about that—of any State in the Union. Yet the report of the chief of police of the city of Indianapolis, the largest city of the State, is to the effect that it is impossible to enforce the law in that city. I ask permission to print his statement in the RECORD at this point.

The VICE PRESIDENT. Without objection, it is so ordered.

The matter referred to is as follows:

[Indianapolis, Friday, January 1, 1926]

RIKHOFF SEES NEED FOR DRY LAW CHANGES—CITES DIFFICULTIES IN ENFORCING PROHIBITION IN INDIANAPOLIS

(By Herman F. Rikhoff, police chief)

The prohibition law, its success or its failure, is one of the most important questions which can be discussed to-day. During the year 1925 I have tried, through this department, to cope honestly with the infractions of the law, as I have the three preceding years of my administration. A discussion of prohibition and bootlegging can not be made for 1925 without considering the previous years of prohibition.

To every fair-minded, unprejudiced, and clear-thinking person there are salient features of the prohibition law which can not be escaped. Let us consider them one by one.

I am not in favor of the return of licensed saloons. Nine out of every ten persons who read this will agree with me. If they were questions, ninety-nine out of every hundred persons would agree with me. There is no denying that home conditions, generally, and specifically in the poorer sections of our city, are better since the "corner saloon" has gone. Luckily, or was it guided by Providence, the saloons left before our streets were filled with motor cars? Have you ever stopped to think how safe you would be on the streets if parties of motorists could stop at any corner and buy a round of drinks? In the days of horses and bicycles the speed demon which seems to infect those who have had "one too many" could not do the damage which it can do now with the high-powered automobiles.

REBELLIOUS OPINION

All citizens in our country are not in sympathy with the prohibition law as it now stands. Public sentiment to some extent is rebellious against it. That is evident from the large number who violate this law. Many who would never violate any other law do violate the liquor law. This shows that something is wrong, either with the law or each and every individual who violates it. A law which will satisfy the majority of the people, enforced to the letter, will make, in my estimation, prohibition a success. This means concession on both sides.

During the year 1925, to the date of December 10, this department made 2,017 arrests for "blind tiger." Of that number 621 were convicted in our city court. Just about 31 per cent. There were 2,586 arrests for drunkenness. Of that number 1,963 were convicted, or about 72 per cent. There were 438 arrests for operating a motor vehicle under the influence of liquor—a charge which is on our statute books to-day as a misdemeanor when it should be a felony with a heavy penalty. Of this number there were 236 convictions, or about 53 per cent. It is entirely too hard for my officers, using their vernacular, to "make a case" in court. There are too many legal loopholes. Reader, do you think that a man should be "staggering drunk" before you would consider him unfit to operate a motor vehicle?

CITES CANADA

By way of comparison, our neighboring country to the north, Canada, has practically rid itself of the charge of "drunkenness." To be

arrested on the street or in a public place drunk means one year in jail. Yet Government distilled liquor is sold by the Government between certain hours of the day. This liquor is sold mainly for medicinal purposes and its use is respected by the citizens. In private, I have had many of the best doctors admit to me that for some sicknesses certain liquor is the best remedy that can be used. In Canada there are no saloons, and beer and light wines are sold in cafes and restaurants only when food is ordered.

The violations of the liquor law are doing more damage to our boys and girls—the men and women, fathers and mothers of to-morrow. We hear and read so much about "what will become of our younger generation." Is it beginning to get disgusting to you? Perhaps. The fact that the situation is bad enough to cause so much discussion is reason enough why we men at the head of our homes, city, county, State, and Nation should do something about it. Twenty years ago if a young man came to a dance or any other social gathering with liquor on his breath he was "put out." To-day the young man with a flask on his hip, even if it is filled with "white mule" too vile to feed to a dumb animal without violating the humane society law, is the popular boy. This is true in all classes from the lowest to the highest—in the public dance hall or at the formal dances of our high schools and colleges.

YOUTH NOT TO BLAME

I can not say I blame the boys and girls themselves entirely. They are carried along by the ways of the time. "Oh, everybody does it," they say. We can not expect them to see through our mature eyes what dangers lie ahead. It is time for some one to change the style. Perhaps they have wrong examples before them. Father, if you have your own bootlegger or your pre-war private stock, can you blame son for "mooching some off of the old man?"

It is not for me to criticize the prohibition law except for the good it may do those who are not in a position to see the bad side of it as I, in my opinion, have seen. It is only for me and my department to enforce the law to the best of our ability. No body of prohibition officers has been successful in enforcing the prohibition law in its entirety.

I am sincerely and deeply interested in the public good. I want the prohibition law to be successful. I want a law that will satisfy the majority of the people, with penalties for violation of the law strong enough to scare every bootlegger out of our country and keep the persons who will drink inside their own homes and away from the wheels of their automobiles. For the sake of our young men and women I want "white mule," "alcohol cokes," "synthetic gin," to go.

Can the liquor law be modified enough to quench that desire of human nature to get "that which is forbidden" without crippling the real cause for prohibition?

Mr. EDGE. Chief of Police Graul, of the city of Cleveland, made a statement, which is printed in the Cleveland press on January 4, giving the total of arrests in that city from 1921 to 1925, showing that there were 31,566 in 1921 and 64,680, or more than double, in 1925. Still we read statements of secretaries of prohibition organizations claiming a 50 per cent decrease in arrests.

I ask permission to insert the statement in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

DRY? DRUNK ARRESTS ARE TWICE 1917'S

CLEVELAND, JANUARY 4, 1926.

A total of 23,393 persons were taken to police stations in 1925 charged with intoxication, Police Chief Graul announced late Monday.

This is more than in 1917, the year before prohibition, when the total was 12,194.

Of those brought in last year charges were placed against 7,673 and 15,720 were golden-ruled. In 1917, 1,207 were held and 10,987 were golden-ruled.

Compared with 1924, a large increase is shown. Then 6,613 were placed under arrest and 12,658 were golden-ruled.

Liquor-law arrests in 1925 totaled 4,560, of which 568 were held for Federal authorities.

Total arrests in 1925 were 64,680, or more than twice as many as in 1921. Here are the total arrests for the last five years:

1921	31,566
1922	39,927
1923	47,826
1924	58,125
1925	64,680

Mr. EDGE. Our own Department of Justice in asking for increased appropriations made the statement that the criminal cases of the country had increased 500 per cent since 1912.

Mr. Buckner, district attorney of New York City, in a recent address made an illuminating statement concerning deaths from poison liquor. I ask that an article from the New York Times of December 17, 1925, relating to his address may be printed in the RECORD at this point.

There being no objection, the article was ordered printed in the RECORD as follows:

POISON LIQUOR TOLL RISING, SAYS BUCKNER—TELLS ALDINE CLUB 511 HAVE DIED FROM PROHIBITION DRINKS THUS FAR THIS YEAR—REAL RUM ROW IS IN CITY—99 PER CENT OF SEIZED LIQUORS FOUND TO CONTAIN POISON, SAYS DISTRICT ATTORNEY—ALCOHOL FLOW CHECKED—BUT 40,000,000 GALLONS OF INDUSTRIAL PRODUCT WENT INTO BOOTLEG TRADE IN 1924, HE ADDS

Armed with health-department figures showing a steady increase in deaths from alcohol poisoning here and records of a Federal chemist's analyses indicating the presence of poison in almost 99 per cent of 50,000 samples of seized liquors, United States Attorney Emory R. Buckner issued a grave warning against "prohibition liquor" yesterday in an address at the Aldine Club in the Fifth Avenue Building.

After declaring that "the real rum row" was no longer afloat, but had established itself throughout the city, and that the forces of Prohibition Administrator John A. Foster were wholly inadequate to cope with the situation, Mr. Buckner said:

"I do not believe in Coué-ing the people into the belief that 'every day in every way prohibition is getting better and better.' Read the toll taken in this city alone by poison liquor. Do not believe me; look up the city health department's records which will show you that from 87 deaths from alcohol poisoning in 1918, the toll has increased to 511 deaths from that source in the first 11 months of 1925.

"I believe that if prohibition is to be enforced the United States Government must organize to enforce it. If it is not to be enforced, I, for one, am strongly in favor of its repeal or modification."

TELLS SOURCE OF BOOTLEG SUPPLY

Echoing the recent statement of Brig. Gen. Lincoln C. Andrews, head of prohibition enforcement work, that the diversion of industrial alcohol into bootleg channels was prohibition's greatest menace and the consumer's largest source of supply, Mr. Buckner declared that a sufficient number of permits had been issued for the use of industrial alcohol for toilet preparations to keep "all the women in the world in perfumes for the rest of their lives."

Improved inspection at denaturing plants, according to Mr. Buckner, had reduced their distribution of alcohol about 50 per cent in the last three months. After saying that the output of denatured alcohol had increased from 23,000,000 gallons in 1921 to 67,000,000 gallons in 1924, Mr. Buckner deduced that, allowing for a "legitimate increase" of 1,000,000 gallons a year, there still remained 40,000,000 gallons in 1924, which "unquestionably" had gone into the bootleg trade.

The health department figures produced by Mr. Buckner showed deaths from alcohol poisoning in New York City for the last eight years to have been as follows:

Year—	Deaths
1918	87
1919	95
1920	84
1921	127
1922	233
1923	470
1924	499
1925 (to Dec. 1)	511

"The answer to this startling toll of death," Mr. Buckner continued, "is prohibition liquor. During the last two years the Federal chemist attached to my office has analyzed 50,000 samples of liquor seized by prohibition agents and policemen. These were not poor men's liquors but represented stuff that was sold to all classes. More than 98 per cent of these samples contained some of the poison that the Government had put into the denatured alcohol from which they had been manufactured.

Mr. EDGE. Doctor Higgins, secretary of the Massachusetts Prison Association, former chairman of the board of parole and master of the house of correction, speaking before the Laymen's League of the Unitarian Church at Taunton, Mass., says:

Prohibition has been responsible for a terrible amount of crime and most of the moral breakdown that we have witnessed in the past few years.

Mr. President, the statements I have quoted are not merely the opinions of individuals as individuals. I have had come to my desk literally thousands of letters from every State in the Union on this subject. I have not attempted to bring those letters to the Senate or congest the RECORD with them, but am simply picking out the statements of a few men who stand out prominently because of their responsibility, because of their contact with the public in church and other lines of work. Their statements can not be questioned and have been made in a desire to contribute to a solution of this problem.

Federal Judge William B. Sheppard, of Pensacola, Fla., but sitting in the Federal district court at Los Angeles, made a statement which I ask permission to print in the RECORD.

The VICE PRESIDENT. Without objection, permission is granted.

The matter referred to is as follows:

[From a Los Angeles newspaper]

CHANGE IN DRY LAW FAVORED—JUDGE HOLDS MODIFICATION MIGHT AID ENFORCEMENT—ACT DECLARED PASSED IN WAR-TIME HYSTERIA—COURT, HOWEVER, SAYS STATUTE MUST BE ENFORCED

A frank opinion that modification of the national prohibition laws might result beneficially to the Nation as a whole was given yesterday by Federal Judge William B. Sheppard, of Pensacola, Fla., now sitting in the Federal district court here.

The opinion was given after a jury in his court had been out a long time before it brought in a verdict of guilty in the cases of D. W. Armstrong and Fred Wallace, charged with liquor-law violations. Judge Sheppard took occasion to remark that the verdict must have been a compromise verdict, in view of the testimony, and commented upon the apparent reluctance of juries in some quarters to convict.

"The prohibition law," the judge insisted, "reflects the sentiment of the majority of the country, and, as long as it is part of the statute law of the Nation, it must be enforced. It was adopted right on the heels of the war and probably was the result of the activities of the Anti-saloon League and other organizations who took advantage of the hysteria of the time, and thereby grafted into the Constitution the eighteenth amendment, but it is the law to-day and is entitled to as much respect as any other statute."

MAJORITY RULES

"The majority rules in this country and the minority must bow in submission in a democratic government. Personally, I may not be in accord with the provisions of the Volstead Act in its entirety, but if the question of prohibition were submitted again I would walk to Pensacola, if necessary, to vote against the saloon."

The judge last night amplified his stand on the subject with the following statement:

"In my experience since the adoption of the national prohibition act in many sections of the country there is an evident reluctance of juries to convict offenders under the law. There is a prevalent opinion that Congress went to extremes in the provisions of the law.

"Undoubtedly it was an abrupt change in the sentiment of the country, and the inhibition against beer and light wines, the moderate use of which, according to general belief, is not inherently intoxicating.

"It was undoubetdly true that many ordinarily law-abiding people in sympathy with the enforcement of the criminal laws generally disregard the prohibition laws, and others, not so much in sympathy with the general enforcement, observing the election exercised by others, are avowedly against prohibition, and this sentiment hampers enforcement to an extent that it paralyzes the attempts of those charged with the enforcement of the prohibition laws.

POSSIBLE SOLUTION

"Speaking from experience, I doubt that strict enforcement of the Volstead Act is possible. Congress may in its wisdom adopt some modification which will make the law more capable of enforcement and generally more efficient for the purposes intended—namely, temperance.

"In view of the reported policy of the Treasury Department—that of a uniform drive for the more strict enforcement throughout the country—it may be demonstrated that some modifications of the law are necessary. Perhaps an adoption of the methods already in force in Canada—that is, permitting the use of light wines and beer at meal hours, and possibly a limited dispensary system under the Federal supervision—might be the solution of the difficult legislative problem.

"I believe those who support unselfishly the policy of temperance would look with favor on some such experiment, because it is a humiliating admission that past enforcement has not been an entire success. Probably the greatest calamity of inefficient enforcement is the tendency of the younger population of the country to flout the law and indulge under circumstances which entails results far-reaching and desultory.

"Probably the crime wave that is so unusual and unaccountable may be, in a measure, attributable to inefficient enforcement. At any rate, the exhibitions of intemperance among the young, notwithstanding the law, is a thing that should cause grave concern among those who wish the best for posterity."

Judge Sheppard has been in Los Angeles for two months, filling the position left vacant by the resignation of former Judge Bledsoe. He is scheduled to leave for his home in Florida in another week.

"I have enjoyed myself here immensely," he declared last night, "and I must say that nowhere in the country have I seen such unprecedented development and industrial enterprise, due, I think, in a great measure to the spirit and vitality of the inhabitants. It has certainly been a pleasure for me to have come to California."

Judge Sheppard has been living at 5357 Loma Linda Street, Hollywood.

Mr. EDGE. I have before me, Mr. President, a very interesting statement from Commissioner Alan G. Straight, the head of the State department of public safety of the State of Michigan, Michigan, of course, being on the border. He made a report following the holiday liquor floods which were alleged in the press, in which, among other things, he said:

The stories of large hauls of choice liquors and big boats by the State police are true, but these seizures mean virtually nothing when compared with the total operations of the rum runners.

I draw your attention to that statement, Mr. President, because of its significance. We hear much about an arrest here and there or a confiscation here and there, and, perhaps, some people do feel that we are getting somewhere in the enforcement of the law, but when an official charged with a duty on the spot knows the facts dissipates any such idea it should make us think.

The head of the University of Michigan, Dr. Clarence Cook Little, recently called the country's prohibition an international joke and made some other remarks about it which I ask permission to have printed in the RECORD.

The VICE PRESIDENT. Without objection, it is so ordered.

The matter referred to is as follows:

[Special to the New York Herald-Tribune]

HEAD OF MICHIGAN ON THE DRY CHAOS

GRAND RAPIDS, MICH., December 10.—"Enforcement of the country's prohibition is 'an international joke' rather than 'a national scandal,' but most of the humor is eliminated by the unwholesome effect the 'unbusinesslike failure to face the issue' has had in fostering 'a good deal of disrespect for law in general,'" Dr. Clarence Cook Little, president of the University of Michigan, told a meeting of Grand Rapids Luncheon Club to-day.

Doctor Little said the country had been groping along blindfolded in its efforts to enforce the law, and recommended a survey to show exactly the scope of the problem created by the prohibition law and the cost which its complete enforcement would entail.

"There have been efforts to enforce the law and to prevent importation of intoxicating liquors," Doctor Little said. "These efforts have failed. New personnel has been appointed, new methods tried. These have failed. Much money has been spent, some lives lost, and a good deal of disrespect for law in general has appeared.

"Is it not time to ask for a businesslike handling of this whole situation in order that we may bring up youth in an atmosphere more nearly freed from hypocrisy?

"The problem is for the Nation as a whole to solve. The first step is an investigation as to the resources in personnel, equipment, and money necessary to patrol and defend our international boundaries and coast lines against invasion by contraband goods. The public has never had a businesslike estimate of the magnitude of the problem as a whole. We can not possibly enforce the law by violent local efforts—now here, now there. Until we know the probable cost of upkeep of an adequate enforcement along all our borders and coasts, we can not take intelligently even the first step in meeting the standards which our own legislation has set."

Mr. EDGE. Mr. President, I am not going to discuss the subject in detail, but will refer to a matter which the Senator from Maryland also referred to a moment ago, and that is the influence of present conditions on the younger generation. In my judgment that is far and away the most serious situation we are facing. Senators probably all read of the so-called Bouchard orgies in Kansas City, Mo., and of the accompanying details. That in itself is simply one incident that happened to be made public because of an accident occurring on the highway while members of the party were returning from the orgy, resulting, as I recall, in the death of two or three of the party. I ask permissin to print the newspaper article in the RECORD bearing on that incident.

The VICE PRESIDENT. Without objection, it is so ordered.

The matter referred to is as follows:

[From the Kansas City Star, December 16, 1925]

BOUCHARD ORGIES TO JURY—PART OF THE TESTIMONY IS ORDERED TOLD IN LOW TONES—STATEMENTS OF YOUTHFUL DRIVER HELD IN DEATH OF THREE COMPANIONS TELLS OF HIS DEBAUCHES AT TRABUE'S PLACE

An admission with an oath by Lynn Bouchard, 16 years old, that he was drunk, and the boys and girls with him had been drinking the night their motor car crashed into a truck and killed three, was related in the testimony of Ross Jones, assistant prosecutor, at Bouchard's trial to-day.

Bouchard's statements on the wreck, as testified to by Jones, sketched for a jury which includes nine fathers, was a setting of reckless dissipation by boys and girls of high-school age. Part of the evidence, a signed statement relating to a previous "party"

in which Bouchard participated with boys and girls of the same age, whose names were not made public, was unprintable. This "party" did not include those who were in the fatal motor-car crash.

TELLS OF ORGIES

When Howard L. Jamison, assistant prosecutor, offered to read the statement of Bouchard containing an account of the previous orgy at the resort of Brent Trabue, 1118 East Fifteenth Street, as well as the events on the night of the accident with a different crowd, Ira Burns, attorney for Bouchard, objected, but was overruled.

Jamison suggested that he would leave out the name of one girl mentioned in the statement, with Mr. Burns's permission, because investigation tended to show she had no part in the affair.

"Go ahead and read it all," Burns said, "I'm not giving my consent to anything. Read it all."

Judge Porterfield told Jamison to read the statement in a low tone so that none but the jurors could hear.

MOTHER IN COURT

The jurors listened gravely, and in the court room there was a restless stir as the monotonous drone of the reading proceeded. Among the spectators sat the mother of Bouchard, who had accompanied her son to the court room to-day, as she did yesterday. Bouchard sat back of his lawyers, generally resting his face in his hands and looking serious and attentive.

Part of the statement related that Trabue expressed disgust at the coarseness of the conduct at that "party," and told the boys and girls he would kick them out if they were not more discreet next time. The same things happened again, however, the statement related, and Trabue did not kick them out.

It was at Trabue's place that Bouchard said be bought beer the night of the fatal accident, Jones testified. Jones testified Bouchard got wine the night of the accident at the home of Frank Kilgore, 2743 Jarboe Street.

QUESTIONED HIM AT HOSPITAL

The first question he asked Bouchard the morning after the accident, when he visited him at the general hospital, Jones said, was whether he was drunk. Jones testified Bouchard replied:

"Do you suppose if I had not been drunk I would have hit that damned truck?"

When he was asked if the others with him were drunk, Jones testified Bouchard said they all were drinking. Then Bouchard's mother interrupted and told Bouchard he shouldn't make such statements, Jones testified.

Jones testified he was standing near when C. H. Austin, a reporter for the Star, told Bouchard three of his companions had died as a result of the accident and heard Bouchard exclaim:

"My God, and I was the cause of the whole thing!"

On cross-examination Burns tried to bring out that Jones got statements for the prosecutor and "got them in the most favorable way for the prosecutor to bring about a conviction." Jones said he tried to get the correct information. Burns then questioned Jones on how he had formed the opinion the reputation of Trabue and Kilgore was bad, as he had stated in his testimony.

QUOTES KILGORE'S WIFE

"Bouchard, for one, told me it was bad," Jones said, "Kilgore's wife told me Kilgore had made 52 gallons of wine in his basement, and there are the statements of a negro maid and three frequenters on the Trabue resort."

A request by Burns that all testimony on the reputation of Kilgore and Trabue be stricken out was overruled.

Dr. Thomas Cooper, assistant city chemist, testified over the objection of Burns, who said Doctor Cooper's name was not entered on the back of the information until yesterday. Doctor Cooper said he found the quart bottle found at the wreck contained wine which was 14.74 per cent alcohol, not an unusual alcoholic content, but certainly an intoxicating one.

TELLS OF FINDING LIQUOR

Evidence to indicate liquor was found at the wreck and that the street was well lighted at the time of the crash was introduced to-day in the testimony of two patrolmen who were among the first at the scene.

Maurice Barry, of the Nineteenth Street police station, told the jury the call to the accident came in about 12.15 o'clock, as he remembered, and that when he arrived at the wreck he found a quart bottle half filled with amber-colored liquor in an overcoat in the wrecked sedan. He didn't know whose overcoat it was, he said. He turned the bottle over to the police department.

The bottle was introduced in evidence and shown to the jury over the objection of Burns.

"STREET WELL LIGHTED"

In response to questioning by the State, Barry said he could see the wreck in the street as soon as he turned the corner from Eighteenth Street into Walnut, at least two-thirds of a block. He said the street was well lighted.

Bouchard's attorney questioned Barry closely on cross-examination on whether he was sure the bottle introduced was the same he had found. Barry said he had turned it in to the station just as other evidence was turned in, and that so far as he knew it had not left the possession of the police department and the city chemist. The bottle bore an identification tag of the police property room, but no other label.

"LOOKED LIKE PEACH BRANDY"

The testimony of William W. Adams, patrolman, followed closely that of Barry. He said he saw two victims of the wreck, a girl and a boy, when he arrived about 12.30 o'clock. He identified a half-pint bottle without a label, exhibited in evidence, as one he had seen a police chauffeur, W. R. Creech, pick up. He said in reply to a question that the liquor in this bottle looked like peach brandy to him. Adams said the street was well lighted, and that he could see the truck and the wrecked sedan lying north of it at least one-half block.

Mr. EDGE. I also ask permission to have printed in the RECORD statistics showing the arrests for drunkenness in the District of Columbia from 1918 to 1925.

The VICE PRESIDENT. Without objection, it is so ordered. The matter referred to is as follows:

[From The Washington Herald]

D. C. DRUNKENNESS GROWS 200 PER CENT IN EIGHT YEARS

There was a stirring debate in the Senate yesterday relative to drunkenness in the District following the adoption of the Volstead law. Here are the facts from the report of the District Jail, showing the total commitments, the number committed for intoxication, and the per cent of intoxication commitments compared with the jail population from 1918 to 1925:

Year	Total commitments	Intoxication commitments	Percentage	Daily average population
1918	5,905	1,530	0.27	227
1919	5,733	1,896	.33	318
1920	3,587	841	.24	296
1921	3,567	1,097	.30	243
1922	4,949	1,943	.39	290
1923	6,364	2,987	.47	320
1924	7,631	3,620	.48	355
1925	9,681	4,688	.49	368

Mr. EDGE. Speaking of statistics, here is a survey that has not been successfully refuted:

[From the New York Times, November 23, 1925]

DRUNKENNESS GAINS, VOLSTEAD ACT FAILS, SAYS LEAGUE REPORT—SURVEY COVERING 457 CITIES SHOWS ARRESTS FOR THAT CAUSE EQUAL 1914 LEVEL—MARKED EFFECT ON DRIVERS—WASHINGTON POLICE SAY 53 WERE CHARGED WITH INTOXICATION IN 1918 AND 616 IN 1924—GAIN IN YOUNG OFFENERS—WISE RESTRICTIVE MEASURE ADVOCATED BY MODERATION LEAGUE IN PLACE OF BONE-DRY LAW

A radical survey of conditions under prohibition made by the Moderation League (Inc.), composed of men from all walks of life who are interested in restoring temperance, indicates that drunkenness, which took a sharp drop after the Volstead Act went into effect, in 1918, has already increased to the preprohibition level and "that drunken drivers and drunken children have increased far above anything known before in this country."

The league concludes that the Volstead Act has "failed utterly to accomplish its purpose to promote temperance and sobriety, that conditions "have become worse, not better, each year," with the "next generation" drinking as never before. After declaring that there seemed to be no hope that in its drastic form the Volstead Act would accomplish its purpose, the league suggested that a greater degree of temperance could be obtained by a wise restrictive law rather than a "bone-dry law which does not command the respect of a large part of the people."

In support of its assertion the league in a report issued yesterday set forth that police records of 350 towns with more than 5,000 population show that the arrests for drunkenness in 1914 were 506,737, and 498,752 in 1924. The more than half a million arrests dropped to 226,700 in 1920, and rose sharply every year after that until 1924. Figures from 457 places between 1920 and 1924 show an increase in such arrests from 258,974 in 1920 to 565,026 in 1924.

INCREASE IN DRUNKEN DRIVERS

Drunkenness dropped during 1918 and 1919 when war-time restrictions on alcoholic liquor were in force and there was a further drop in 1920. In 1921, according to the league, there was an enormous increase, which continued every year until 1924, which had the same amount of drunkenness as preprohibition years.

"Perhaps the most curious result of national bone-dryness is the remarkable increase in the number of drunken drivers," the report

says. "The number of drunken drivers before national prohibition was more or less constant from year to year, showing only small fluctuations with a tendency toward gradual rise commensurate with the increase in the number of automobiles.

"Coincident, however, with the enactment of the Volstead Act, which became effective at the end of 1919, drunken drivers began to increase amazingly, and the increase has continued year by year since then.

"The figures when plotted on charts show curves which are almost flat before the Volstead period and which thereafter shoot skyward at an astonishing angle.

"If this sort of thing happened in only a few instances, it might be attributed to purely local causes; but the fact that it has occurred everywhere, almost without exception, leads to the confident belief that it is due to one general cause, the Volstead Act, with which it was coincident."

ARRESTS IN THIS CITY

The increases in drunkenness under the Volstead Act have been enormous, the report says. In New York City, for example, the arrests for this cause from 1916 to 1919 averaged 161. In 1920, the first dry year, they rose to 334, dropped slightly in 1921, and then skyrocketed to 944 by 1924, an increase of 484 per cent above the preprohibition level, according to the survey.

Chicago shows substantially the same result. Arrests there were 282 in 1919 and 1,523 in 1924, an increase of 440 per cent. Washington, D. C., shows 53 arrests for drunken driving in 1918 and 616 in 1924, an increase of 1,062 per cent. In Milwaukee arrests were 10 in 1918 and 11 in 1919. They reached 292 in 1924, an increase of 2,554 per cent.

Figures reported from other cities show increases in arrests in 1924 over 1919, the last wet year, as follows:

	Per cent
Boston	364
Scranton	578
Providence	244
Atlanta	500
Worcester	448
New Haven	713
Hartford	378
Minneapolis	916

"The number of automobiles has of course increased, but this increase has been much too small to explain the large increase in drunken drivers," the report continues. "The total number of vehicles in the United States shows that the increase since as far back as 1914 has been very uniform from year to year, with no unusual spurt after 1919, like the figures for drunken drivers show.

"Motor vehicles in the United States increased from 1919 to 1924 only 132 per cent, whereas drunken drivers increased in the same period about 354 per cent on the average. The difference of 222 per cent is clearly attributable to the Volstead Act."

RESULTS OF FLASK DRINKING

In Massachusetts, automobiles, according to the survey, increased 161 per cent between 1919 and 1924, and revocation for drunken driving increased 693 per cent during the same period. "The difference of 532 per cent must be laid at the door of the Volstead Act," the report says, and continues:

"The reason for this enormous increase in drunken drivers seems fairly clear. After prohibition, one could not purchase intoxicants, or at least 'safe' intoxicants almost anywhere, as previously. This necessitated procuring an ample supply—a case or bottle—in advance, and it was then toted around on the hip or in the car and consumed in transit. Drinking before prohibition was largely indoors; and after prohibition, from a flask on the road.

"The most pathetic feature of it all is that prohibition was intended to stop this very thing. One of the strongest arguments for prohibition ran as follows: 'This is a motorized age and the automobile is a dangerous instrument which must be kept out of the hands of intoxicated people; therefore, ban intoxicants.'

"The result, unfortunately, has been precisely the contrary to what the prohibitionists intended and prophesied."

After pointing to press reports concerning the increase in drinking among boys and girls and the paucity of statistics on this subject, the survey reveals that the police department of Washington, D. C., had kept records of arrests of young persons for drunkenness. These show that arrests of those under 22 years of age averaged 44 a year for the four preprohibition years from 1914 to 1917. A bone-dry law was enacted in Washington before national prohibition became effective and the survey shows that youthful drunkenness increased. In 1918 it rose to 73 and by 1924 it had reached 282, an increase of 540 per cent in arrests above the preprohibition level. This condition, the survey says, "merely confirms what is known to exist in the rest of the country."

WORSE IN "DRY" STATES

"One of the interesting things disclosed by the survey is that while conditions in former 'wet' States are now about the same as 1914," the report says, "in former 'dry' States, which had some form of a State prohibition or semiprohibition law before the eighteenth amendment was adopted, conditions are worse to-day under the bone-dry Volstead Act than they formerly were under their own State dry laws."

"Dry" Indiana was given as an example. From 6,473 cases of drunkenness in 1914, the number increased to 11,379 in 1924, a much greater increase than that of the "wet" States. Arrests in Indianapolis increased from 1,121 in 1914, to 4,976 in 1924.

The survey shows the following table of arrests for intoxication in some of the principal cities for 1914, 1920, and 1924:

	1914	1920	1924
Washington, D. C.	8,837	3,565	9,149
Connecticut:			
Hartford	4,891	3,279	4,511
Waterbury	1,377	748	1,107
Florida:			
Jacksonville	2,025	811	2,251
Key West	534	480	429
Illinois:			
*Chicago	52,823	32,352	86,072
*Peoria	2,509	864	2,560
Indiana:			
Indianapolis	1,121	3,546	4,976
South Bend	793	227	1,625
Fort Wayne	1,162	176	1,158
Maine:			
Portland	3,681	729	1,878
Lewiston	1,509	559	860
Massachusetts:			
Boston	59,159	21,800	39,536
Worcester	5,432	2,685	4,385
Springfield	2,499	619	1,895
Needham	14	24	58
Lawrence	1,933	1,312	2,068
Fall River	2,021	767	1,736
Minnesota:			
Minneapolis	6,553	2,363	7,249
St. Paul	3,765	1,640	3,747
Duluth	3,091	1,139	2,699
New Jersey:			
Atlantic City	1,094	393	1,335
Camden	2,154	630	1,757
Asbury Park	231	211	492
Montclair	57	36	84
Trenton	1,214	847	1,255
New York:			
Albany	2,219	477	4,118
Buffalo	13,713	7,331	11,135
New York City	23,041	7,470	13,036
Saratoga Springs	45	131	460
Schenectady	673	326	841
Ohio:			
Akron	2,436	3,871	3,717
Ashtabula	239	289	388
Cincinnati	1,817	395	1,895
Dayton	1,345	681	1,011
Pennsylvania:			
Philadelphia	51,489	20,443	55,766
Pittsburgh	20,567	9,577	25,401
Scranton	2,377	1,830	2,756
Monongahela City	432	350	234

* Includes disorderly conduct

FOR A WISE RESTRICTIVE LAW

The league's conclusions follow:

"When we consider that drunkenness generally has already increased to the preprohibition level, and that drunken drivers and drunken children have increased far above anything ever known before in this country, we can not escape the conclusion that the Volstead Act has utterly failed to do what it was intended to do, namely, promote temperance and sobriety. Moreover, since conditions have become worse, not better, each year, and with the 'next generation' drinking as never before, there seems to be no hope that the Volstead Act in its present drastic form will accomplish its purpose in the long run.

"From the experience, before national prohibition, of the States which had restrictive laws, from the experience of the whole country during the restrictive years 1918–19, and from the experience of the Canadian Provinces, we believe that a greater degree of temperance can be attained by a wise restrictive law than by a bone-dry law which does not command the respect of a large part of the people.

"We are also of the firm conviction that such a policy of wise restriction would have the incidental advantage of eliminating almost entirely the scandalous corruption and bribery of public officials, would stop the growth of the bootlegging millionaire class, would check disrespect for law, and would in addition produce a handsome national revenue."

The officers of the Moderation League (Inc.) are Austen G. Fox, chairman of the board; William de Forest Manice, secretary and treasurer; Stanley Shirk, research director; and Thomas W. Therkildsen, executive secretary. The executive committee consists of E. N. Brown, Franklin Remington, and George Zabriskie.

The directors and advisory board members include John G. Agar, Abel E. Blackmar, Dr. Joseph A. Blake, Newman Carlton, Gano Dunn, William N. Dykman, Harrington Emerson, Bishop Charles Fiske, Haley

Fiske, James P. Holland, Dr. Samuel W. Lambert, Arthur Lehman, William Barclay Parsons, Lewis S. Pilcher, Dr. Henry S. Pritchett, Prof. Michael I. Pupin, William C. Redfield, Kermit Roosevelt, Elihu Root, James Speyer, Martin Vogel, and Dr. William H. Welch.

Mr. EDGE. Mr. President, I can say with real feeling that I admire the sincerity of my good friend from Texas [Mr. SHEPPARD], and am sorry to disagree with him as to methods, but for his information—perhaps he knows about it already—I ask permission to have printed in the RECORD the result of what is termed, I believe, an official survey of the bootlegging condition in a section of his own State, namely, in Dallas, Tex. The sheriff obtained the information, as I understand, upon the request or demand of citizens, and issued a report that a survey of bootleggers shows an annual harvest of $11,233,000.02 in the city of Dallas.

Mr. MOSES. What is 2 cents for?

Mr. EDGE. I am not so sure what the 2 cents is for.

The Times-Herald of that city prints an editorial which I will read. It is as follows:

[From the Times Herald]

STARTLING STATISTICS

Sheriff Marshall has estimated that, from the best information obtainable, something like $11,232,000 worth of illicit liquor is sold in Dallas every year.

That amount, it is explained, represents the bootleg value, at gallon rates of $12 per, rather than at pint rates, which would double the total.

And that amount, it is further explained, is distributed among some 300 persons who, despite arrests by city, county, State, and Federal officers, are engaged in the illegal sale or manufacture of the contraband.

In other words, 300 salesmen.

It appears that every time one moonshiner or one bootlegger is arrested some one else takes his place, else the law violators would all be in jail, for the sheriff's office alone arrested more than 100 bootleggers and moonshiners during the first 90 days of the present administration.

Underestimated or overestimated as the startling statistics may be, they are at least able to show that the prohibition law to date has not served to prohibit.

Liquor is still being made, sold, and consumed.

And if Dallas is an average city, at the same rate there would be something like $5,000,000,000 worth of liquor consumed in the Nation annually, for Dallas has about one four-hundredth of the population of the Nation.

Incidentally, it is to be remarked that the sheriff's estimates do not include smuggled rum or prescription liquor consumed here.

I ask to print in the RECORD at this point another article from a Dallas newspaper bearing on the same subject.

The VICE PRESIDENT. Without objection, it is so ordered.

The article referred to is as follows:

SURVEY OF BOOTLEGGERS SHOWS ANNUAL HARVEST OF $11,232,000.02 IN DALLAS

Results of an extensive survey which has been made by Sheriff Schuyler Marshall at the request of Rev. Atticus Webb, superintendent of the Anti-Saloon League of Texas, reveal that $36,000 is the approximate daily income of Dallas bootleggers from the illicit sale of whisky in this county.

On a six-day week basis, the survey, arrived at from information furnished by bootleggers in the county jail placed in the hands of expert mathematicians, shows the startling fact that Dallas bootleggers are reaping an annual "whisky harvest" of approximately $11,232,000.02.

The sheriff's department started making the survey several weeks ago on receipt of a letter from Mr. Webb, who explained he wanted the information "for no political purposes," but to make comparisons of present-day prohibition conditions with conditions as they were in Dallas when 199 saloons were here in 1915.

INTERVIEWS "LEGGERS"

Deputy Sheriff Miller Gardner was assigned to interview all bootleggers in the jail here on present conditions. Here are a few of the high lights of what the survey shows:

There are approximately 300 men in Dallas making a living selling bootleg whisky.

Each one sells on an average of 10 gallons of whisky a day.

They get $12 per gallon for it.

It costs them $3.65 a gallon to make it.

Thus these 300 men are making $36 per day, or $11,232,000 annually, working six days a week.

The 3,000 gallons sold daily costs only $10,950 to manufacture and nets a revenue of $36,000. Profit, $25,050.

In a year these 300 bootleggers sell 936,000 gallons of whisky for $12 per gallon, netting $11,232,000. It cost $3.65 per gallon, a total of $3,411,400. Thus a profit of $7,817,600 in a year.

"But it doesn't pay at that," says one of the men interviewed in jail. He is held on a charge of violating the Dean law and willingly aided the officers in establishing a basis for the survey.

"Bootleggers make plenty of money selling whisky, but they get caught sooner or later," he explained.

"Out of the tremendous amount of money made by bootleggers and illicit whisky manufacturers, it's not hard to guess who reaps the greatest financial benefit.

"It is the lawyers who represent bootleg clients."

Mr. EDGE. I did not read the editorial or ask to have the article printed in the RECORD in any spirit of criticism of Texas, because I say freely and frankly that in my judgment the same conditions, in greater or less degree, exist in every city in every section of this country to-day.

I also ask to have printed in the RECORD an article from the El Paso Herald referring to the smuggling across the line from the Mexican side. Just as there is wholesale smuggling on the Canadian border, so there is on the Mexican border.

The VICE PRESIDENT. Without objection, it is so ordered.

The matter referred to is as follows:

[From the El Paso Herald]

The price of holiday liquor, by the way, is cheaper than in many years. The El Paso market has been overstocked and they are selling the stuff at little more than the purchase price on the other side of the river.

Down-town bootleggers are quoting whisky at $5.50 a quart, with a few of them selling as low as $4.50. Tequila brings the regular price of $1 for the small bottles and $2.50 to $3 for the quarts.

There is a decided drop in the Madero cognac market, the down-town venders asking $4, while in a number of places it can be bought at $3.50.

Mr. EDGE. Mr. President, we are looking for a remedy for the situation, and, in my judgment, it is of great importance to provide a remedy. However, we are not going to get a remedy by any other method than common-sense deliberation. We may not be able to provide a remedy on the floor of the Senate; I very much doubt if we can; but, perhaps, we can interest the country and possibly men will sit around the table and recognize the situation we are facing. In order, at least, to have a remedy presented in concrete form to the American public, I have gone to some trouble to collect four or five reviews of the situation, in the so-called wet Provinces of Canada. Senators, perhaps, know that all the Provinces in Canada, with the exception of Ontario, have voted for some degree of wetness. Various surveys of the result of those experiments have been made by experienced, able, and talented writers and social students. I have several articles published as a result of those investigations, and I ask permission to print them in the RECORD as a part of my remarks.

The VICE PRESIDENT. Without objection, it is so ordered.

The matter referred to is as follows:

[From the Cleveland Press]

REVIEW OF CANADIAN SITUATION

SALOON IS GONE IN CANADA—GOVERNMENT LIQUOR MONOPOLY NOT RETURN TO OLD EVILS

[This is the sixteenth of a series of articles by Gilson Gardner reporting the operation of liquor laws in the various Provinces of Canada.]

(By Gilson Gardner)

What light does the experience of Canada throw on questions raised by the recent Federal Council of Churches' report on the "social experiment" of prohibition in the United States?

First. The council's report calls attention to "a falling away on the part of the religious and moral forces from the crusading enthusiasm which brought about the new régime."

This "falling away" is to be noted in Canada also. But in Canada it is not a matter of surmise, as it is, to a large degree, in the United States. In Canada every Province has been tested by frequent elections, the vote being on the liquor question solely. And in all the Provinces what amounts to a revolution of sentiment is registered between the years 1915–1919 and 1923.

SYSTEM REPUDIATED

Canada went into prohibition in the former period with all the enthusiasm with which the United States ratified its eighteenth amendment. That enthusiasm not only has abated but the overwhelming majority in all western Provinces, with almost a majority in Ontario, has repudiated the system which was adopted in both countries under the name of prohibition.

In Canada this does not mean that "drys" have become "wets" or that the voter has been deceived or seduced by the "liquor interests." It means that Canada found the weaknesses of so-called prohibition—the corruption, bootlegging, and general disregard of law—to have cheated the hope of a really "dry" or sober state and to have justified experimenting with a different plan for achieving the same end; that is, the State-monopoly plan.

SALOON IS GONE

The Federal Council of Churches' report notes the passing of the saloon. It says:

"Taken by itself the banishment of the saloon is one of the outstanding social facts of contemporary American history. And there seems to be not the least doubt that the country has accepted with satisfaction the passing of the saloon. Its memory inspires few tears, and seldom is a voice raised in the interest of its return."

This paragraph can be duplicated, almost verbally, from any report of the Canadian liquor commissions. The reversal of public opinion in Canada is not a call to the saloon to come back. The Canadian saloon has gone the way of the American saloon. The "tavern" is a very different thing from the saloon. There are no "hard drinks" to be had in a "tavern" or "beer hall" and no bar. So far as anyone may discover, the "evils of the saloon" are not a part of the present Canadian plan.

ENFORCEMENT LAX

The churches' report speaks of the nonenforcement of America's prohibition laws.

"The problem," it says, "is chiefly a moral problem, arising out of the widespread violation of the law. It is noteworthy that even in those inland areas where there is evidence of growing success in the enforcement of the law the characteristic evils arising out of its violation are found in disquieting measure."

That was the Canadian story in every Province from Quebec to Vancouver. Up to 1919 all of Canada was "dry"—that is, all of Canada was under "war-time prohibition." Even Quebec was nominally so. And all of Canada was during that period "wet" with the same illicit "wetness" and the same defiance of law that is noted in the United States.

CHECK IMPOSSIBLE

Even in the Province of Alberta, where prohibitionists were strongest, and even under the united-farmer government, when farmer-prohibitionists were in complete control of government, it was found impossible to check the flow of illicit drink. At the same time crimes of violence increased and disregard for law became so scandalous that the whole community arose and demanded some different way of handling the liquor problem.

With reference to public opinion and prohibition in this country and its possible change the churches' report says:

"When we reach that vague and elusive factor, the opinion of the general public, there is little basis for anything but surmise. It may be said with a good deal of assurance that many populous sections of the country would now reverse the verdict if they had the chance, but there is much reason to believe that most of the States, taken as a whole, still would vote affirmatively."

FAVOR QUEBEC PLAN

Canada's experience throws light on this. Elections in Ontario, Canada's one remaining large "dry" Province, show the cities "wet" and the rural communities "dry." In last fall's referendum, when the prohibition majority of 180,000 was cut to 30,000, it was the country vote that saved the day for the "drys." But in all the other Provinces (the small maritimes only excepted) both country and city voted for the Quebec plan.

One reason why the Quebec plan has made progress in the other Provinces is because it includes "local option" features, in accordance with which a "dry" community can remain "dry" if it so desires and votes; that is, it can refuse to have a "liquor store" or State dispensary or licensed beer venders located in such community. Even in Quebec, where the State dispensary system started, less than half the province by population and more than half by area is dry.

MONOPOLY FAVORED

The overwhelming vote in the western Provinces must not be interpreted as a vote for the evils of the liquor traffic as it existed before the effort to curb those evils.

The overwhelming antiprohibition vote of Canada's electorate was a vote for the alternative of "the Quebec plan."

It unquestionably registers a conviction in the minds of the Canadian people that government monopoly and sale of spirits, wines, and beers "as beverages" produces less lawlessness, less political corruption, and probably less actual drunkenness than the unenforced or perhaps unenforceable prohibition statutes.

[From Current Events, Montreal]

LIQUOR LAWS OF THE PROVINCE OF QUEBEC

For centuries the drink question has been agitating public opinion throughout the world. Total prohibition is more challenged than ever as an effective remedy for the evils arising out of the liquor traffic.

On one point there is no possible discussion—the immoderate use of alcohol is clearly detrimental, not only to the individual but also to society. The advisability or the inadvisability of drinking liquor moderately is, however, another question.

Mr. Samuel Hopkins Adams, formerly a leading advocate of prohibition, sums up his disappointment in this way: "Nearly three years' experience have proved one point definitely—prohibition does not prohibit."

We, of Quebec, wished to retain for our Province that liberty which is dear to our people, who will not tolerate that we dictate to them what they may or may not drink.

Therefore, we enacted our liquor law. This law provides that the Government alone may buy or sell strong liquors—through a commission.

THE COMMISSION

For this commission we chose men of the highest standing and prestige, known throughout Canada for their ability and integrity: Hon. L. C. Cordeau, former magistrate of Verdun, who resigned his function to be appointed chairman; Mr. Justice Carroll, of the Court of King's Bench; Dr. Merrill Desaulniers, who resigned as member of the legislative assembly to become commissioner; Napoleon Drouin, formerly mayor of Quebec and also a successful and widely known manufacturer; and W. C. Hodgson, of Hodgson, Sumner Co. (Ltd.).

DIGEST OF THE LAWS

This commission established stores in cities where alcohol is sold in sealed packages, but in limited quantities—one bottle at a time. The stores are open between the hours of 9 a. m. and 6 p. m. daily, except Saturdays, when the hours are 9 a. m. to 1 p. m. On holidays and election days the stores are closed. The sale is made openly, freely, and without stealth. The alcohol is pure. Before being placed on sale it is submitted to analysts in the service of the commission. Wines and beers are sold in licensed hotels, restaurants, steamboats, dining cars, and clubs at meals (only between the hours of 9 a. m. and 10 p. m. daily, except on legal holidays) by holders of a permit, which the commission grants to the best of its judgment, and without influence from anyone whomsoever.

No store for the sale of alcohol or wine or beer may be opened in a municipality which is opposed to it. Municipal autonomy and the desire of citizens is thus respected.

Ever since May 1, 1921, when the new system became law, open testimony to its moral success and effective results from the viewpoint of temperance has been offered by all unbiased and unprejudiced men.

Mr. George Buchanan Fife, whose report was published in the New York Evening World, and Mr. George McAdam, whose findings were reported in the New York Times, concludes that the Quebec liquor act had proved highly successful, especially in reducing drunkenness, bootlegging, and the illicit manufacture of impure liquor. The people being behind the law, the law is observed. The use of light beer and wines is increasing, with a converse decrease in the use of hard liquor.

Quebec may well be confident that it has solved the liquor problem. Total prohibition can not be the ultimate solution. If the futility and general failure of prohibitory laws in the United States and elsewhere did not serve as evidence, we would still be sufficiently warned by the earnest entreaty of Montesquieu, "I shall ever repeat that mankind is not governed by extremes but by principles of moderation."

The Government has introduced this liquor act as temperance legislation. To redeem their pledge, not only must they raise the level of temperance above that which existed under previous systems, including prohibition, but they must keep the Province from relapsing at any time into the least alcoholic excess. Over four years of practical test has shown the wisdom of enactment. Under its influence, temperance is more and more the rule among the great masses of our people.

Knowing by the experience of our neighbors what an organized and active minority can do, we can not forget that the Antisaloon League of the United States is planning to make a "bone-dry" world by 1930, and that our Canadian prohibitionists are aiming at nothing short of federal prohibition.

Prohibitionists show the weakness of their cause from the fact that they deem it necessary to put the question beyond the reach of our provincial jurisdiction.

Even if promoted by prohibitionists whose sincerity of purpose can not be questioned, any agitation aiming at federal prohibition will be highly resented by the Province of Quebec.

In order to better resist such an unwarranted attempt, all should keep well in mind that "Prohibition will work great injury to the cause of temperance. It is a species of intemperance within itself, for it goes beyond the bounds of reason in that it attempts to control

a man's appetite by legislation, and makes a crime out of things that are not crimes. A prohibition law strikes a blow at the very principles on which our Government was founded."

[From the American Legion Weekly, January 15, 1926]

AMERICA'S HAPPY DRINKING GROUND

(By Samuel Taylor Moore)

In a preceding article in the American Legion Weekly I made the statement that the magnet attracting increasing numbers of citizens of the United States into Canada every year was the fact that alcoholic stimulants are freely on sale in a majority of the border Provinces. Booze is not the sole attraction, but it is an increasingly important one. How the tourist business in the Dominion has grown is reflected by the fact that last year the money spent by American sightseers exceeded the expenses of the Canadian Federal Government.

The budget of the Dominion Government in 1924 amounted to $351,000,000, which includes the maintenance of a transcontinental railroad system operating at a tremendous deficit. Tourists from the States spent $353,000,000. The 1925 revenue from United States visitors will greatly exceed the total of last year.

In such a complex question as the liquor traffic Quebec offers the most interesting field for study in the Dominion, because it is the only Province to remain consistently wet. The entry of a state government into the liquor business is a social experiment with interesting consequences, moral and economic.

Beyond such results is a condition of vital importance to the United States, for undeniably Quebec is the present base for bootlegging operations into the North Atlantic States.

When national prohibition became, in a manner speaking, effective, on July 1, 1919, it was to Canada that the American smugglers turned to secure supplies of contraband. The volume of wet goods flooding over the border rose to amazing proportions by 1921. Then it declined, being confined chiefly to ale and beer. The reason for the desertion of Canada by bootleggers was the development of an easier and cheaper source of supply—rum row. Until a few months ago the flotilla of foreign-registered rum ships lying outside our territorial jurisdiction enjoyed steady patronage. It was much easier to smuggle liquor in from 12 to 20 miles off the coast than to make an overland run of some 300 miles.

The United States Government, at a cost of $30,000,000 or more, has driven the floating booze bases from the seas. It was done quickly and efficiently. This task accomplished, there remains little work to engage the active attention of the doubled personnel of the Coast Guard and the hundreds of specially designed new ships which were put in service for that particular mission in the North Atlantic.

To-day the Coast Guard north of Cape May is, in effect, a vigilant (and expensive) reserve force, easily maintaining a position that will never be threatened so long as it remains guarded. But should effort be relaxed the "enemy" would promptly return. Meanwhile the bootlegging industry has merely reverted to the tactics abandoned in 1921. Once more Quebec is the chief base of operations. And while most members of the recently created "law enforcement division" of the Coast Guard lack useful employment, a customs patrol which averages one guard to every four roads leading from Canada to the United States is sweating to dam the new flood of bootleg liquor cascading in from the north.

Before considering border conditions, however, it is perhaps worth while to consider the balance sheet of Quebec's experiment in running what is practically a government liquor monopoly. What have been the effects of the experiment?

Prior to 1919 the sale of wines, beers, and spirituous liquors in Quebec was generally unrestricted. In that year and continuing until May 1, 1921, the provincial assembly authorized a modified form of prohibition. Although wines and beers were sold as freely as formerly, so-called hard liquors could only be secured on presentation of a medical prescription. The experiment proved highly unsatisfactory in several phases and the present law was offered as an experimental solution.

Briefly, all wines and liquors on sale in Quebec are retailed through stores conducted by a liquor commission. There are 90 such stores scattered through the Province, the majority being in the larger cities. The law provides that only one bottle may be sold to a customer at one time. The location of the stores is governed by local option. Ale and beer is manufactured and distributed as always, merely being subject to a tax of 5 per cent of the wholesale value, payable to the commission. In grocery stores it is as much of a staple as bread or sugar, sold in case lots. Only wines and beers may be served with meals in licensed hotels and restaurants, compelling the drinking of hard liquors in private. Ale and beer may also be purchased in licensed taverns, which are the nearest approach to the former barrooms. The consumer must be served at a table while seated; there is no self-service.

The commission began operation without a dollar of capital. It was financed by Quebec bankers wholly on paper. In the first three years it paid a total net profit of $12,500,000 into the provincial treasury and created a reserve of almost $2,000,000 for its own contingencies in addition to purchasing plants and equipment. In addition it paid to the Dominion Government in customs, excise, and sales taxes considerably more than $19,000,000. The provincial budget of Quebec is only little more than $20,000,000 a year. Should the liquor commission be entitled to pay gross profits into the treasury of their own State, the proceeds would reduce taxation 50 cents on the dollar.

The gross receipts the first year amounted to $15,200,000. The second and third year the returns were just under $20,000,000. The figures for the year ending May 1, 1925, have not yet been made public. I am able to present them, however, and they show an interesting condition. The gross revenue is $2,000,000 less than in the preceding two years. Temperance advocates, as distinguished from prohibitionists, claim a feather for their caps, for the decrease in the consumption of hard liquors has been attended by an increase in the sale of wine, ale, and beer. Whether former drinkers of hard stuff have turned to less potent beverages to assuage their thirst remains a matter of some conjecture, for the heavy American patronage creates a complex situation. The year of 1924 was not up to snuff from the standpoint of tourist traffic. That may be one factor, for it will be recalled that an official of the commission estimated that 40 per cent of the business transacted by the commission was with Americans.

Study of the annual report of the commission emphasizes that the great volume of trade is not with the native Canadians. Stores serving a wholly native section seldom exceed $200,000 for a year's receipts. Stores readily available to Americans, and adjacent to dry Ontario, vary all the way from $400,000 to well in excess of $1,000,000.

But the truly amazing balance of the Quebec experiment is to be found in a survey of morality as evidenced by police records. The manner of keeping records for arrests and convictions is fairly uniform throughout the nine Canadian Provinces. Of first importance is the relation of booze to major crime, criminologists being agreed that the two are closely interwoven. The figures I quote cover convictions for indictable offenses, as distinguished from minor infractions of law, during a three-year period—1921–23. It should also be borne in mind that Quebec and Ontario are the two most populous Provinces, each containing slightly in excess of one-fourth of the total population of the Dominion, including the two largest cities, Montreal and Toronto. For every 100,000 of population the average number of such convictions throughout the Dominion was 166.8.

In Quebec the average was but 114, being bettered only by the small maritime Provinces of Prince Edward Island and New Brunswick, with 21 and 66, respectively. The average in Ontario, which was legally bone dry during the period, was 237, the highest of any Province.

Objections to the foregoing figures might be raised on the grounds that the police and court officials of one province might have been less competent or aggressive than others. I have before me figures for the year 1922 containing a complete list of offenses known to the police, as distinguished from convictions for crime. They include four categories, theft, burgalry, highway robbery, assaults, and similar offenses against the person. For every 100,000 of population the average for the Dominion was 1,414.3. As in the list of conviction statistics, Quebec's position remains seventh with only 928.8. Ontario's situation appears immeasurably improved under this classification, for it drops from first position to sixth with a figure of but 1,212.1. The province of Alberta is the bad boy of the Dominion family with 2,598.4. It is worthy of note, however, that in the classification of assaults, Quebec is last on the list, with fewer such crimes per thousand of population than even diminutive Prince Edward Island. Much is made of that figure in view of the contention that alcohol rouses the fighting blood of the consumer.

Statistics on arrests for drunkenness in the four-year period 1920–1923 are not so valuable as a source of comparison because they merely give totals, rather than an average according to population. It is eloquent that the total average for wet Quebec is but 8,792 a year, while dry Ontario is represented by a figure of 12,738. And it is also a fact that many persons arrested in Quebec are guests from other provinces enjoying the privileges of the moister state. In the little city of Hull, Quebec, just over the river from Ottawa, Ontario, and a favorite resort of rebels against prohibitory statutes, four residents of dry Ontario are arrested for drunkenness to every one native son.

Restricted prohibition in Quebec accounted for a decided increase in drunkenness, the number of convictions per 100,000 of population jumping from 300 in 1919 to 525 in 1920. Under the régime of the liquor commission there has been a steady decrease to below the 1919 figure. A three-year average on a population basis in the two principal cities shows that wet Montreal had but 787 convictions for drunkenness to 855 in dry Toronto.

The latest available figures in Montreal show that arrests for drunkenness have steadily decreased in the metropolis from a total of 6,363 in 1921 to 1,218 in 1924. In the city of Quebec the decline is less marked, but none the less substantial—875 in 1921 to 645 in 1924.

One other inevitable comparison which must be made relates to enforcement of the liquor law. Members of the provincial constabu-

lary and local police departments are generally relieved of responsibility for prosecuting violations by a special squad of police, paid and maintained by the liquor commission from its own revenue. There are 24 men in the force, and in 1924 they prosecuted 1,695 cases of violation, with 1,199 convictions and 246 failures to convict, the balance being either withdrawn or pending. The revenue derived by fines and seizures amounted to $168,000 and the total expense of the service was but $70,000—a net profit of roughly $100,000.

When Rum Row was flourishing and hard liquors were easily obtained off the coast bootlegging from Canada was confined almost exclusively to beer and ale. Because of the bulk and comparative cheapness of the latter beverages no skipper would bother to load such a cargo. There were and are many outlets from the Quebec breweries to the bootleg industry, for, as I have mentioned, the commission merely collects a tax of 5 per cent on gross sales—anyone may purchase such beverages in quantity. A quart bottle of ale, with a wholesale value of 15 cents in Quebec, commands $1.50 by the time it is served over the bar of a New York speak-easy.

The guarding of the border is a prodigious task. For every four highways crossing into the United States there is but one customs guard in the second district, the most important territory bordering on Quebec. No man can be vigilant for twenty-four hours, seven days a week. Other problems include the smuggling of narcotics and aliens. In Montreal's Chinatown on a Sunday I have seen a street of gambling houses running wide open and scores of newly-arrived Chinese awaiting a chance to slip into the States.

The miracle is that such a limited force can begin to cope with the smuggling problem, yet a prominent American bootlegger in Canada with whom I talked damned the efficiency of the traveling customs patrols.

Up to midsummer of 1925 in the second district 65 trucks and automobiles had been seized, carrying cargoes of whisky, champagne, and liquors. And highways offer only one mode of transport. There are a score of railroad lines crossing into Canada in the East, and freight-car shipments of contraband are increasing each month. Concealed in camouflaged freight cargoes are huge caches of booze of various varieties. Such shipments are indeed a problem, since it is impossible to inspect every freight car. At Ogdensburg, N. Y., 20,000 freight cars pass through in a single year; at Rouses Point, 60,000.

With nothing but admiration for the accomplishments of the United States Government officers one fact remains. Liquor remains plentiful—such as it is—in the Eastern Atlantic States. It is no longer coming in from the seas in unlimited quantities. The one remaining base for such supplies is Canada. The conclusion is inevitable that bootleg booze is now coming from that section. Wholesale prices for the stuff have advanced only enough to cover the transportation of a longer haul. Retail prices have fluctuated little.

Such are the varied phases of rum selling in and rum running from the empire to our north. Summed up, they would appear to present consequences quite paradoxical from the standpoint of morality. As a reporter of facts in the wet régime in Quebec I have attempted to be neutral. But I can not resist the temptation to quote a prominent Montrealer with whom I talked.

"If the business men of Quebec want to enjoy a maximum tourist influx I'd suggest that the Government make an earnest effort to stop American bootleggers from operating here," he declared. "We could do it if we wanted to. Then when you Americans were robbed of your only source of half-way decent liquor, Quebec would experience a steady invasion that would make the present annual gathering look like a church attendance in fine golf weather."

[From the Minneapolis Times]

BEER IS SERVED IN ALBERTA

[Editor's note: This is the twelfth of a series of articles by Mr. Gardner reporting the operation of liquor laws in the various Provinces of Canada.]

(By Gilson Gardner)

CALGARY, ALBERTA, CANADA (by mail).—Real beer may be had here by the glass, or the bottle, in a place which resembles the old "bar." But now one sits down to a small table and tells the waiter.

This is the first place since Quebec where this could be done. "Beer halls," or "taverns," maintained by approximately 300 hotels in the principal cities of the Province, are part of the plan of Alberta's government control of alcoholic beverages.

The "open bar" and brass rail have not been restored. The bar has an inhospitable iron grating in front of it, and there is no lunch, free or otherwise. Nor music. Just beer.

Otherwise, Alberta is much like the other government control Provinces. It has 25 "stores," located in the principal centers of population, for the sale of spirituous liquors. It has the permit system, by which the purchaser pays $2 a year or 50 cents a purchase, and has his purchases credited to his permit.

In this Province the "stores" keep open later—from 10 a. m. to 6 p. m. in rural districts and 8 p. m. in city districts. This is done to cut out the small "after-hours" bootlegger.

Alberta is among the more recent converts to this "wet" experiment. The law has been operating since May 10, 1924. Incidentally, at the end of its first year it had turned over a profit of $1,020,000 to the provincial government in addition to what the liquors had paid in excise taxes and import duties.

The Alberta Liquor Commission is composed of one man, R. J. Dinning, of Lethbridge, formerly manager of the Bank of Montreal. He is, to all intents and purposes, the czar of the liquor traffic. He seems to be not a fanatic either way, and his administration is giving general satisfaction.

This Province was formerly the chief stronghold of prohibition. In 1915 the voters ratified a prohibition proposal by a majority of 20,786 out of a total vote of 97,453. Eight years later, November 5, 1923, they voted by a majority of 39,077 out of a total vote of 162,267 against prohibition. This mandate has been worked out in the present governmental control plan.

AGAINST BOOTLEGGING

Why this change of sentiment? The reaction, it is universally admitted, was not against successful prohibition; it was against bootlegging and the general flouting of the law. Prohibition here prohibited nothing but the decent and moderate consumption of drink and the collection of a Government revenue from the industry. The bootlegger flourished under Government auspices. The Government sold in 1920, $2,760,182 worth of liquor for "medicinal" and "manufacturing" purposes, and this liquor, of course, found its way into the hands of unscrupulous druggists, doctors, and others, and was consumed by the bootleg patrons.

There were bootleggers everywhere. The "doctor's prescription" liquor was everywhere. Every principal hotel had its carousing party, and there were "parties" in increasing numbers in the residential districts and an evident increase of drinking among women and young girls.

The Alberta people did not like this. The Albertans are terribly law-abiding. At least, that is their tradition. Many of them are settlers from the "dry" rural sections of the United States. They are the "farmer government" people, devoted to the initiative and referendum, government ownership, widows' pensions, woman's suffrage, prohibition, and such-like "reform" ideas, and the Protestant churches which preach prohibition flourish here.

WOMEN VOTED

In the second election—the wet election of 1923—the women voted. Also the returned soldiers, and both these elements evidently voted against the "crime and bootleg" variety of prohibition.

Being told that the best-informed and fairest-minded man in the Province is Chester A. Bloom, of the editorial department of the Calgary Herald, I asked him what he thought of the working of the Alberta act.

"I honestly think it is good," he said; "I have no prejudices either way, and I think I can form a fair judgment. It seems to me after all a matter of psychology. Make it difficult to get drink and it immediately interests people to get it. Make it the ordinary thing and a great majority of people leave it alone. Under the old so-called prohibition régime hotel parties and residence parties became a public nuisance. I had to leave the principal hotel at Edmonton, where I covered the legislature, because of the noise and roistering would not let me sleep nights. That is all changed. There is nothing smart about having liquor now. A man can get his beer and drink it quietly. If he gets noisy he is suppressed. Hotels have to be very careful about their licenses. I am convinced there is less drinking by women. The excitement of serving drink has disappeared. Anybody can serve it. It is not smart any more, and so of the young man and the hip flask.

"The chief of police of Calgary, and this is typical as a city, says there is little change in the statistics of arrest. If anything they have fallen off. Perhaps there is a slight increase in the arrests for driving automobiles while under the influence of liquor. That was to be expected.

"Of course, the big gain is in restored respect for law. We are a law-abiding people. The quick prosperity of the bootlegger and the increasing disregard of law were hard things for our people to bear. If liquor was to be sold or drunk, we felt it would be better to have it done legally and to divert the revenue from the bootlegger to the public treasury. Our taxes have been high and times hard and we were glad to have the revenue. But that was not the main thing. The big thing was to get back our respect for law, and to get rid of the bootlegger."

NEW LIQUOR LAW IN CANADA SOLVES PROBLEM OF DRINK, PEOPLE AND CHURCHMEN SAY—SALOON AND ITS EVILS ELIMINATED BY GOVERNMENT TAKING OVER THE BUSINESS—DRUNKENNESS REDUCED 75 PER CENT, IT IS ESTIMATED

(By George Buchanan Fife, staff correspondent of the Evening World)

MONTREAL, June 11.—There is in effect in the Province of Quebec a new law in reference to the possession and sale of alcoholic beverages which the officials and the people of the Province believe to be a solution of the liquor question.

The law has received the indorsement of high churchmen of the two principal denominations represented in the Province, and is regarded by them as a temperance measure. Those who administer it call it "a law of temperance and liberty."

It is far from prohibition. It permits the reasonable purchase of liquors, wines, beers, and ales, and also permits their resale under certain conditions, but it requires that all original purchases must be made from a commission established by the Provincial government.

To this end the Province of Quebec has gone into the wholesale and retail liquor business and set up shops for the cash sale of liquors, wines, and cordials. It has fixed a scale of prices at which these shall be sold, and prescribed hours for their sale. While preserving and protecting individual brands and labels, the commission has devised its own outer wrapping for each bottle, affixed its own label, and sealed the cork with a government stamp.

WHAT THE NEW LAW HAS ACCOMPLISHED

What the new law has accomplished is this:

Abolished the saloon.

Taken the enforcement of the law out of the hands of the municipal police.

Practically killed the business of "bootlegging."

Forbidden the sale of spirits to those who drink to excess, to mental defectives, to those who, by extravagance, are ruining their families, to persons below 18 years of age.

Reduced drunkenness about 75 per cent.

Placed beer within reach of those who want it by the glass.

Submitted to chemical analysis all spirituous liquors so that their purity might be guaranteed to the purchaser.

Provided severe penalties for violations of the law.

Prohibited the sale of spirituous or malt beverages save between the hours of 9 a. m. and 10 p. m. and made Sunday and certain holidays and feast days bone-dry periods.

Created its own police department to enforce the law.

This new law is only six weeks old, but from the reports which have come to the commission that body has many reasons to believe that the law is a success.

In addition to those accomplishments, the new law is permitting the Province to earn a profit on the sale of liquors and spirituous beverages which, with the fees charged for sale permits, is expected to yield an annual revenue of about $1,000,000. This sum is to be expended for educational uses and for the purpose of paying the interest on bonds issued for highway improvement.

The chief city in which the new law is being tried out is Montreal—Quebec is still under a previously passed Federal law and is dry by her own choice—and there one may purchase alcoholic beverages with little more difficulty than before the new act became effective. The sole noteworthy restriction is that the purchaser may buy only one bottle of "hard liquor" at one time in one place, but he may purchase as much wine as he likes.

WHERE SPIRITUOUS DRINKS MAY NOT BE HAD

Furthermore he may buy wine or beer by glass or bottle in any hotel, restaurant, steamboat, dining car, club, or other establishment recognized by the commission as serving meals. He may not, however, buy a glass of strong drink in any of these places, though there is nothing in the law to prevent him from taking it there "on the hip" and serving himself—nothing, that is, save the "corkage" a hotel or restaurant is likely to charge him.

As an indication of the volume of business being done in Montreal, for instance, weekly returns from some of the shops established by the commission run as high as $15,000 or $16,000, and have touched $18,000 on the day before a holiday. One little shop in Peel Street, which may be taken as representative, rings up between $2,500 and $3,000 daily on its cash register.

In considering the foregoing figures the reader must remember that when the commission came into being on May 1 last and, empowered by the new law, took over every drop of wine and liquor in the Province, it did so at the prices the vendors had paid for these beverages, many at war prices, and was compelled to fix a high price in accordance. Furthermore, about three weeks ago a Federal import tax of $10 per gallon on alcoholic liquors was ordered by the Government at Ottawa, which just doubled the former tax. When the time comes that the commission shall have exhausted the stocks thus purchased and go into the importation business on its own account, prices will be materially reduced. At present the commission is doing a small amount of importation in order that its customers may have the brands they desire, because the commission is determined that it will do everything in its power to make the people content with the new law and its administration.

The liquor situation of to-day in Quebec came about through an eight-year process. Eight years ago the provincial government at Quebec appointed a liquor commission, being urged to this by the temperance people, who complained of the abuses in the liquor traffic and the great number of drinking establishments. The commission, composed of Judge A. G. Cross and Judge H. G. Carroll, of the court of appeals, and Judge A. Tessier, of the superior court, made a report suggesting curtailment of the number of drinking places, the suppression of bars, and an experiment along the lines of liquor legislation in Sweden and Norway. In these two countries the state controls the liquor traffic.

But this suggestion was not acted upon by the Government of the day, and those in favor of prohibition launched a movement which eventually brought the city of Quebec under the law known as the Scott Act, which is a permissive act, permitting local option. Montreal rejected it, but it became operative in the city of Quebec on May 1, 1918. The Scott law forbade the sale of spirits save by prescription of a physician.

WHERE THE OLD LAW PROVED A FAILURE

The result of this was that certain physicians in the city began a profitable trade in prescriptions, the law was not enforced and vendors paid little heed to it. In a word, the Scott Act did not work as the prohibitionists had hoped it would.

A change in affairs which would affect and benefit the entire Province was seen to be imperative, and it was also recognized that whatever change should be ordered must take strict account of the temperamental characteristics of two radically different peoples living in the Province, the French and the Anglo-Saxon. A law must be framed which would serve for both and admit of an infinitesimal amount of abuse and evasion.

When the present Premier, Louis A. Taschereau, came into office in July, 1920, one of the first things to engage him was the liquor question. He and his advisors realized that the incentive to gain was the principal source of troubles in the situation and that this could be overcome only by creating the Province as a vendor. Thus came about the present act, known as the local law, which was passed by the council and assembly of Quebec on February 25, 1921, becoming effective May 1, last.

The new law follows somewhat the Swedish and Norwegian enactments and creates a commission which it clothes with absolutely autocratic power to deal with the liquor problem. It is a law aimed at the violator in no uncertain terms and affixes punishments to make the bootlegger pause. If he is caught, he has no alternative of a fine; he must go to jail for a period of not less than a month, and the court may give him three.

The commission appointed under the law consists of Hon. George Simard, former provincial councillor, chairman; Judge Carroll, of the old commission, vice chairman; Sir William Stavert, formerly assistant manager of the Bank of Montreal; A. L. Caron, a manufacturer of Montreal; and Napoleon Drouin, a manufacturer of Quebec. The head offices of the commission were established in Montreal, with a branch office in Quebec, and as soon as the commission was named it had to begin work at top speed, as the act was effective in every locality which was not then under the Scott law.

One of the first provisions of the new law was that every vendor authorized under preceding laws had to make a statement to the commission showing all the alcoholic liquor belonging to him or in his possession or under his control, and put it immediately in the possession of the commission. It was a confiscatory act, and regarded as such, because the commission let it be known that it meant business even in such a drastic act. So far as beer and ale were concerned, the commission decided to let the brewers handle their own business, under license and supervision, of course, because these malt liquors were considered too bulky for handling by the local government.

COMMISSION TOOK OVER GREAT STOCKS OF LIQUORS

With the filing of the vendors' statements and simultaneous surrender of their holdings the commission came into possession of several million dollars' worth of liquors and wines. In case of the great wholesalers and also in those of the large hotels in Montreal and elsewhere it was evident to the commission that to seize their stocks physically and place them in a warehouse, as the act provided, would be to cause great damage to fine wines, thousands of gallons being in huge maturing casks. So the commission bought these stocks in bulk, paying the vendors only their cost price, and immediately resold them to their owners without moving them from the premises. The stocks of the wholesalers were left to be drawn from as the commission needed them for individuals, and those of the hotels, restaurants, and clubs were left for disposal by them to patrons taking their meals in these places.

Stocks of small dealers, such as grocers, retail wine merchants, saloon keepers, and the like, were collected and placed in warehouses in Montreal and Quebec. In the latter city the warehouse was installed to supply the commission store, which dispensed and still dispenses spirits upon medical prescriptions, as the Scott Act prevails in that city.

With this liquor on its hands, estimated to-day to be worth about $6,500,000, the commission proceeded to establish "stores" for its sale. The law permits it to establish them "in such cities and towns as the commission may choose, and to the number that it decides." At present there are between 50 and 60 in the Province, 30 in Montreal, 3 in Quebec, 1 in Huss on the Ontario border, 2 in Sherbrook and Three Rivers, and the others scattered. It is contemplated

that when the commission reaches its "peak load" there will be 100 such stores throughout the Province.

Although the commission is the sole liquor merchant in the Province, it permits a liberal resale of wines, liquors, and beers by authorized persons upon payment of certain fees. These are, in the order in which they are mentioned in the act:

1. Any person in charge of a recognized hospital, who may charge the patients for what is dispensed to them. He pays no license fee.

2. Every person having a trading post or industrial or mining establishment in New Quebec or other territory in the northern parts of the Province, who may sell to employees and to the people living in the territory. The fee for such license is $100.

DRINKS FOR THE TRAVELER PROVIDED FOR

3. Any person in charge of any hotel, restaurant, steamboat, dining car, club, or other establishment recognized by the commission as serving meals. The sale is limited to wine or beer by glass or bottle and must be drunk on the premises during the meal by the traveler, boarder, or club member and his companions. The license for this privilege costs a hotel or restaurant in a city $300, in a town $150, and $100 elsewhere. A boat license costs $300, and each dining car serving drinks must pay $100. City club licenses cost $400, clubs elsewhere paying $200. Dining rooms of other establishments pay $200 in the city and half that amount elsewhere.

4. Any person in charge of a grocery or store may sell beer alone, but not less than a bottle, and it may not be drunk on the premises. In the cities of Montreal and Quebec—so the law reads—there is required a duty of $25 and 125 per cent of the annual value or rent of the premises, provided that in no case shall the duties on such permit be less than $300 nor more than $500. In any other city the tariff is $300, in any town $225, and in any part of the Province $150.

5. Any person in charge of a tavern, but in a city or town only, may sell beer by the glass, provided it be consumed on the premises. A tavern in Montreal pays a fee of $500 if the annual value or rental of the premises be $500 or less, and so on up a scale to $1,500 if the value or rent be $25,000 or more. In the city of Quebec the first fee is $500 if the rent or value of the premises be $200 or less, and rises to $1,200 if the value be $10,000 or more. In other cities, and in towns, the size of the license fee depends upon the number of taverns, decreasing as they increase.

6. Any person in charge of a banquet may sell beer and wine, to be consumed on the premises, upon payment of $10, unless the banquet be held in an already licensed place, when there is no extra fee.

7. Permission is given to sell in a summer resort hotel or in an amusement-park restaurant for six months or less at half the hotel license fee, and for a similar period in a tavern similarly located for one-half the tavern fee.

Arrayed against these permissions and fees is a list of penalties, not the least of which lies in this sentence from the act: "The commission may cancel any permit at its discretion," and this, as was called to the writer's attention, may be done with or without statement of reason for such cancellation. That the commission is determined to enforce the law is embodied in this warning it issued a short time ago to permit holders:

MUST BE NO TRIFLING WITH THE LAW

"Permittees who in the past have shown little regard for the law are warned that they can not entertain any hope of immunity in the future. Those who doubt their ability to resist temptations put in their way to violate the law had better devote their energy and enterprise to more suitable callings and leave this particular field open to others better able than they to carry on a business of this kind in conformity with the requirements of the law."

In the first place the "bootlegger" gets short shrift under the new law. He faces, in addition to costs, "imprisonment for a term of three months, which the court may reduce to one month." So far no three-month terms have been imposed. A week ago a man was discovered selling whisky "off the hip" to farmers in the Bon Secours Market in Montreal, and he went up for a month instanter. A short time afterwards a large touring car was caught on the Victoria Bridge speeding toward King Edward's Highway and Rouses Point, which is 40 miles away on American soil. The car was heavy laden with whisky. Now it and the whisky are the property of the Province of Quebec, and the unlawful purchaser who was in the machine is awaiting trial, with the three months staring him in the face.

Nor are the penalties light for other violators. Sale of any unauthorized liquor or to any interdicted persons or for any other consideration save money makes the culprit liable to a fine of $1,000 for the first offense, with three months in jail for subsequent offense.

Refilling bottles or changing labels, selling out of hours, selling to persons not 18 years of age, and employing any woman in a tavern other than the tavernkeeper's wife are some of the offenses punishable by a fine of $100 with a month's imprisonment for a second dereliction. A beer seller is responsible to the tune of not more than $500 damages for selling to an interdicted person and for $1,000 damages for any act of violence or damage which this person may commit. And if such a person takes his own life or is killed while intoxicated, the seller may have to pay $1,000 damages.

CREATED ITS OWN POLICE FORCE

That the new law may be rigidly enforced, the commission has created its own police force, placing its organization in the hands of Brig. Gen. Edouard de B. Panet, a soldier of 17 years' experience, who went over in 1914 with the first Canadian contingent and fought throughout the war; and its fieldwork under J. L. Chartrand, who has had many years' experience in police work. The present detective force comprises 60 men on duty night and day in two shifts in Montreal and 40 in Quebec, with about 100 scattered elsewhere in the Province.

These men are ununiformed and have been selected with especial care and only upon the personal recommendation of one or the other of the heads of the department. The powers with which these agents are invested are of a piece of the power which clothes the commission. Although by a document signed by any member of the commission they are empowered to make search and seizure, they can act in many instances without warrant—if they suspect illegal traffic or possession. Under the same ruling they may seize any vehicle, of land or water, in which liquor is being illegally transported, confiscating, of course, all liquor so taken. They are empowered, where admission is resisted, to force an entrance to any boat, vehicle, or building in their search for illicitly held liquor, provided they suspect its presence.

Just now there are pending about 60 cases of violation of the law, which are in the hands of David R. Murphy, counsel to the commission. The convictions so far obtained number only two, the others awaiting trial. So determined was the commission to make it clear to the people of the Province that violators would be prosecuted that on May 2, the day after the law went into effect, there were 15 cases recorded.

FIFTY GOVERNMENT "STORES" TO START WITH

As the liquor commission had to undertake on May 1 the entire liquor business of the Province, the population of which is nearly 3,000,000, it was compelled to start with an organization which, the commissioners believe, will suffice for some time to come. The opening of new stores to the number of about 50 will occur as communities request them, and as there are usually four clerks to a store 200 additional employees can handle the business.

The headquarters of the commission are at No. 63 Notre Dame Street East, Montreal, where there are 50 employees. The four warehouses of the commission, where bottles are wrapped and labeled and where cask wine is bottled, require the services of 160 persons, and there are 30 more in the shipping department at No. 34 St. Paul Street East. The stores established have a total of 200 salesmen, and the detective force amounts to about 200 more. This makes a total of 640 employees, aside from the commissioners and less than half a dozen bureau chiefs.

So far as salaries are concerned, the personnel receives the customary wage for clerical and secretarial work. The pay of the chairman of the commission is $14,000, that of the vice chairman $9,000, and of the other three members $8,000 each.

For the stores established by the commission a price list has been devised which suffices to yield the Province a profit of about 25 per cent. Reference to the price list shows that, save in the case of some wines, which are obviously placed within reach of the peasantry and the less favored of fortune, the cost to the consumer is well above what it used to be. The new impost of $10 a gallon and the generally increased cost of spirits, not forgetting the price at which the commission was compelled in all justice to pay the vendors upon the spirits taken over, is to be blamed for the prices. There is assurance, however, that these will decrease in time.

PRICES THAT PREVAIL IN THE "STORES"

Just now in the commission's stores alcohol sells for $3.75 a quart. Good brandy costs from $4.30 to $3.05. Champagnes range from $7.50 to $3.00 per quart, with pints from $3.95 to $2. Gin is quoted at from $4.35 for a 43-ounce bottle to $2.70 a quart. The brands with which we are most familiar in this country are priced from $3.15 to $2.70 per bottle, a fifth of a gallon. Irish whiskies are $4.90 for imperial quarts, the full quart of this country, to $3.20 per bottle. Scotch whisky is listed at from $6.20 (imperial quart) to $2 per bottle. Brands well known in the United States sell at figures ranging from $4.55 to $3.45. Canadian whiskies cost from $2.90 to $3.20. American whiskies are not quoted. Rum sells at $5.65 a liter, and as low as $3.35 a bottle. Yellow chartreuse is listed at $4.60 a liter; green chartreuse at $3 a half liter, the costliest on the list, with the others, crème de menthe, crème de cacao, curacao and blackberry and cherry brandies at $2.90. Clarets sell as low as 40 cents a quart and as high as $1.25. Sauternes have the same range. Native port is quoted at 25 cents a quart, mass wine (for church use) being 75 cents a quart. The vermouths, both Italian and French, have a common price of $1.65 the bottle.

ONE BUSY "STORE" AND HOW IT IS RUN

In Montreal one of the representative shops run by the commission is at No. 151 Peel Street, between the Windsor Hotel and St. Catherine Street. It is a small, single store, but during three periods in the day its large cash register is ringing like a chime of bells. Here five

clerks are on duty, and the receipts from those three periods—early forenoon, luncheon time, and late afternoon—average between $2,500 and $3,000 a day. The afternoon that your correspondent was in this shop there was a constant stream of customers.

All the wares of the shop were in full view on the shelves, each bottle wrapped in brown paper bearing the label of the commission and the price of the contents. Men looking like brokers (which is the outward sign of prosperity according to New York perception) came in in groups and pairs and singly, looked over the shelves, or failing to see just what they wanted asked for this brand or that. Sometimes it was forthcoming from a rear shelf, sometimes the clerk in attendance would reply, "Sorry, sir; all out of that; more in next week." Then the patron would take another squint at the shelves and make a selection. Once in a while the clerk would call off the brands in stock of the commodity desired and thus help the customer to make up his mind. The purchases of wines and whiskies were about evenly divided.

NO SIGNS FOR THE THIRSTY WAYFARER

One peculiarity of the commission's shops is that if one did not know their whereabouts he could never find them, because the commission forbids the display of any sign outside, or of any commodity in the show window to indicate the business within. But this is scarcely a hardship, because probably any man one might stop on the street could direct a prospective customer to the nearest oasis. Under the influence of the law, man's proverbial aversion to carrying a bundle through the streets has quite disappeared in Montreal, but if it is persisted, the commission would gladly send the purchase home by parcel post. In fact, it does thousands of dollars worth of this shipping business and has devised a special package composed of two thicknesses of corrugated paper for the bottle, which, in turn, is surrounded with absorbing sawdust so that, in case of breakage, the other mail matter will not be injured.

Liquors so purchased are for home consumption or for transportation—for instance, to one's club, where one may keep what he pleases in his locker and have cocktails or highballs or anything he pleases made from his purchases. The club is looked upon by the commission as a man's other home or other castle, as it were, and has no intention of interfering with him so long as he keeps within the present law.

A LAW OF TEMPERANCE AND A LAW OF LIBERTY

Chairman Simard, of the commission, said to your correspondent: "We consider this a law of temperance and a law of liberty. The reason for its enactment lies in the fact that the majority of those living in the Province are of French antecedents and temperament. They are very conservative as to their personal liberty. They want to be able to take a drink when they want it without having to hide during the process. No law should say to me that I shall not drink, because it is bad or because some one else doesn't drink. Therefore, it was the will of the majority that there should be no prohibition, but that there should be temperance in drinking.

"In framing the law the two temperaments of the two peoples living in the Province, the French and the Anglo-Saxon, were thoughtfully considered. Those who desire to have alcoholic beverages may have them under this law by petitioning the commission to open a store, in their community, for example. A great number of the 1,200 parishes in the Province have voted for local option and are dry or wet, as they desire. If they vote to be dry, the commission is prohibited from establishing a store there, and the brewers are prohibited from distributing beer. But, careful of personal liberty, the law permits any man living in such dry community to come to Montreal or to any other place in which a commission store exists and there buy his spirts.

"If he disagrees with the sentiment which brought about local option in his community he is free to have his drinkables, but he can not buy them in his own community. It is an eminently reasonable law, since it forces nothing upon any community. But we have assuredly accomplished one thing, we have destroyed the saloon. Another institution we are destroying utterly is the bootlegger. What he is attempting to sell now is the stock he secreted or that some one else secreted prior to May 1. When that stock is exhausted he can get no other save through purchase from the commission. Then what will he do for a business?

"The commission is determined to use all its efforts to prevent the sale of liquors outside the Province—to America, for example. Already requests for sales in America have been made to the commission, but naturally they have been refused at once.

LAW A FACER FOR "DRYS" AND LIQUOR DEALERS

Sir William Stavert, who has charge of the finances of the commission, owing to his long banking experience, said: "This new law is a courageous piece of legislation. It flies in the face of both the prohibitionists and the liquor dealers. But both sides have recognized it as sane and worthy of trial. It is a demonstration of the sanity and conservatism of the people of the Province. We are striving to arrive at what the whole world is seeking—temperance in the true meaning of the word.

"Public opinion is strongly behind those who are trying to bring this about. Even the great wholesalers and vendors of liquors who were put out of business by the law are ready to admit that conditions which hitherto prevailed were unsatisfactory and that the present plan deserved trial. And they admit, too, that the present plan is bound to be a success if properly administered."

In the city of Quebec and in supervision of all liquor traffic in that municipality and the surrounding countryside Judge Carroll has his office. There are only three stores in that city just now, because the new law is not in effect there, the physician's prescription being the only passport to alcoholic stimulant. But the liquor is the property of the commission and is dispensed by it. The chief store is at No. 48 Palace Hill, a big double store, with seven assistants, under Manager Ripp, and all of them busy filling physicians' prescriptions. The income of this store alone per day is between $700 and $800. Brandy, Scotch whisky, and gin are the most popular items prescribed, as many as four cases of brandy, five of Scotch, and four of gin being disposed of daily. The prescriptions are not alone from Quebec City, but from the countryside for a distance of 20 miles or more along the St. Lawrence. The wine sales in this shop average $50 a day and include champagnes. The selling period is from 10 o'clock in the morning till 7 in the evening, with a Saturday closing at 2 o'clock.

LAW MUST BE ARBITRARY BUT REASONABLE

"I believe that a full year will be required to give this new law a reasonable test," said Judge Carroll. "When I read or hear criticism leveled at the law in its details I am impatient. The law should be looked at as a whole, as a measure which has in it the spirit to accomplish great good, and not in details which have not as yet been put to the test. I am sure of one thing, that the law, even in its present form, is bound to decrease abuses in the liquor traffic in the Province. A liquor law must be arbitrary, but it must at the same time be reasonable. It is useless to say to people 'You shall not drink!' but you can say 'You must drink in moderation!' And that is the spirit of the new law.

"Prohibition now exists in every Province of Canada save in Quebec and British Columbia, and the latter has, of its own accord, followed our leadership and drafted a law like ours, which becomes operative on June 15.

"One great good which comes of the law is this, that no individual has any incentive to increase the sale of liquor. Also the physician's prescription, which was a thing abused and forged, is eliminated as a liquor producer. Also there is elimination of private gain in the traffic. The law permits the concentration of the business in the large centers and practical prohibition in the rural districts.

"A safety valve for these districts is provided through a person's ability to go to a center and get his liquor, or that person may write to the nearest store and have the liquor sent to him provided he pays cash and transportation charges.

"Within a short time I expect to see the new law apply to the city of Quebec. It will either come about through referendum to the people, many of whom are eager to try out the plan, or, in case the plan is a great success, the Government may suspend the Scott Act so far as we here are concerned. Quebec is the only large city in the Province in which the Scott Act is in force, and in its three years of application it has brought anything but good results. It could hardly be expected to work satisfactorily where physicians' prescriptions could be bought for 50 cents and when the law provided that the issue of a prescription for other than strictly medicinal purposes meant a fine of only $20 for the first offense and $40 for any subsequent offense."

[From the Minute Man]

QUEBEC

Quebec has temperance. The United States has prohibition.

The Federal Government is deprived of a preprohibition revenue of upward of a billion dollars. It is spending this year about $30,000,000 in the endeavor to enforce prohibition; in addition to that its courts are jammed with Volstead cases, the cost of which can not be even estimated. The Federal courts resemble all over the country the old-time police courts of any municipality. They have no time for the exercise of their legitimate functions.

Some 65,000 Volstead cases were disposed of in 1924, mostly of the pint-bottle variety. There is a strange scarcity of the higher-up cases—we mean where millions are involved. The poor and friendless violators make up the number of cases. Agents are rated according to the number of arrests and convictions to their credit—not jury convictions because the ratio of such is very small—which are generally pleas of guilt by the poor, who can not afford lawyers.

The same is true of the States; monstrous invasions of people's rights are common everywhere.

The Frankenstein of anarchy stirs with life. The people are more and more voicing their hatred for laws to which the poor are subject and from which the rich are exempt. In their exasperation they may not discriminate very long as to which law they hate.

Quebec is law-abiding. The United States is lawless.

Quebec is prosperous. The United States is debt ridden.

All because "common sense" is exercised in Quebec. The United States as yet enjoys the "common sense" of the mad-dog variety. Sanity was never bred by a fanatic—religious, moral, or any other kind.

The evidence of Quebec's "common sense" is contained in the report of its liquor commission for the year ending April 30, 1924, as presented by the New York Times.

Quebec expects to pay its war debt in addition to taking care of its schools and roads in 20 years.

The report follows:

[Special to the New York Times]

QUEBEC, January 31.—The reports of the Quebec liquor commission for the year ended April 30, 1924, shows gross receipts of $19,812,781, with a net operating profit of $4,417,097 and a surplus of $4,604,370, in addition to $1,000,000 applied to reserve for working capital and $150,000 reserve for insurance. The revenue from seizures was $1,337,273.

Liquor to the value of $12,749,090 was purchased during the year. From 1921 to 1924 the gross receipts were $54,724,255, the net operating profit for the period being $10,605,365. The provincial government received $12,462,869.

Increased consumption of wines and beers is shown by the report. The sales of wines increased from 183,170 gallons in the first six months of 1923 to 316,131 in the first six months of 1924, or 72.5 per cent. The sale of spirits decreased from 341,004 to 322,516, or 5.42 per cent, in the same period.

It is shown that 25,238,355 gallons of beer were manufactured and sold in the Province during the year. The sales amounted to $14,639,650, while the total amount of beer produced, imported, and exported was 26,228,488 gallons, with a value of $15,278,875.

Beer furnishes another instance of the increased use of light alcoholic beverages. During 1921 and 1922 the consumption of beer remained practically stationary at around 22,000,000 gallons a year.

Of the 86 commission stores in operation in the Province, 67 are located in Montreal City and district. The store at 180 Peel Street, Montreal, holds the record for the amount of liquor sold, this totaling $1,322,615.

It is noteworthy that the stores showing the largest sales are located in districts which are thronged by American tourists. The store at 180 Peel Street is near the big hotels which are frequented by Americans while visiting Montreal. The store at 142 St. Antoine Street and 404 Bleury, with sales of $924,591 and $568,156, respectively, are also in the heart of the district.

The amount of liquor sold in the time of year when Americans usually visit the Province far exceeds the usual sales. In January, 1923, 27,768 gallons of wine were sold as compared with 37,350 gallons in June. In March, 1924, 48,645 gallons of wine were sold as compared with 50,728 gallons in June. In March, 1923, 52,440 gallons of spirits were sold as compared with 58,992 gallons in June. In 1924 the sale of hard liquors showed a general decrease.

The Province of Quebec, which at the time of the last census in 1921 contained more than one-fourth of the total population of Canada, furnished in 1922 only 18.35 per cent of the criminality of the entire dominion.

In 1919, 301 persons per 100,000 were convicted for drunkenness. In 1920, under the prohibition régime, the figure swelled to 525 per 100,000, while in 1923, after three years of actual operation of the commission, the figures fell to 267. In Montreal in 1920, 7,008 arrests were made for drunkenness as compared with 1,218 in 1923. In the city of Quebec 1,163 arrests were made in 1920 as compared with 288 in 1923.

Mr. EDGE. I should like also to print in the RECORD the photograph which I hold in my hand [exhibiting]; but under the rules governing the publication of the RECORD, photographs can not be printed without special permission. This is the photograph of seven little girls who are orphans to-day because their father, who was a workman in a factory, going innocently to his work, got in the way of a prohibition agent's bullet, as did one of our own colleagues, and was killed. Those seven children to-day have neither father nor mother.

Here is another interesting view from a well-known educator:

DECEMBER 10, 1925.

Mrs. VICTOR A. SEGGERMAN,
P. O. Box 76, Atlantic Highlands, N. J.

DEAR MADAME: I have read with attention your letter of December 8, which reveals to me the fact that you are sincerely in the dark as to the meaning and effects of the attempt to establish nation-wide prohibition by constitutional amendment.

In five short years this has proved to be the most colossal failure in the history of government, and judged by its consequences the most immoral undertaking on which any government ever embarked.

Remember that prohibition has nothing whatever to do with temperance. Indeed, being itself intemperate, it contradicts temperance at every point.

Remember that prohibition has nothing to do with the suppression of the liquor traffic. Indeed, it has developed that traffic to an unheard of extent, and has brought to those who engage in it unsupervised and untaxed profits so colossal that they represent the revenues of the kingdom. It has restored the liquor traffic to States and sections from which it had almost, if not entirely, disappeared, and it has brought in its train a corruption and immorality, public and private, that never can be measured.

Remember that prohibition is something quite different from the suppression of the saloon. It is true that the saloon has almost everywhere disappeared from view, but in tens of thousands of cases it has only been driven out of sight. In the Province of Quebec, on the other hand, where a rational, sensible, and moral attempt has been made to deal with the liquor problem, there are no saloons and no liquor traffic. Where the United States has so signally failed, the Province of Quebec has triumphantly succeeded. We are a hundred years behind our neighbors in dealing with this social problem. They have found a democratic and an ethical solution and one consonant with common sense, with civil liberty, and with free institutions; we have reverted to the methods of the Dark Ages and of czarist Russia and are daily violating fundamental and righteous laws in the futile and lawbreaking attempt to enforce a foolish and untruthful law.

Remember that prohibition affronts both the Christian and the Jewish religions. There are two elements, and only two, which the Lord Jesus Christ both used and blessed. One was bread, and one was wine. For nearly 2,000 years wine has been a sacred symbol in the Christian church. Under such circumstances for a mere human being to say that the use of wine is immoral is plainly anti-Christian. There is nothing more moral or immoral in the use of wine made from grapes than there is in the use of bread made from wheat. Lack of self-control, excess, and overindulgence, which lead to drunkenness and to gluttony, are the immoralities; not the wine made from grapes; not the bread made from wheat. Gluttony and drunkenness are vices and may easily rise to the height of sins, but there is not the slightest element of morality or immorality in the objects of food and drink themselves.

No immoral and unreasonable public act can long stand. The same argument was made for slavery 75 years ago that is made for prohibition to-day. As slavery was driven out of the Constitution and out of the country, so prohibition will be, and we shall develop a plan to abolish the saloon, to suppress the liquor traffic, and to reduce drunkenness to a minimum, which will be in accordance with both the traditions of Christianity and the principles of the American Government.

The most eager supporters of the present system are the paid lobbyists of the Anti-Saloon League, who make their living out of it, and the bootleggers, who do the same.

To drive prohibition out of the country has become a moral issue.

Very truly yours,

NICHOLAS MURRAY BUTLER.

Mr. EDGE. I said that I would not refer to thousands of letters which I have received, but I did, after looking over many of them—I can not look over all of them—pick out four or five which to me were typical of the thought of the average citizen. All which I have heretofore presented has been the experience of the official or of men in public places. Five or six of these letters, however, appealed to me very strongly—I am not going to read them—as showing the experience of the man on the railroad, the conductor, the old soldier in a home, the farmer in the ordinary pursuit of his labor and responsibility, and one or two others of similar character.

I desire to quote a brief extract from the letter of an old soldier in a soldiers' home, which reads as follows:

It also does me good to hear a few lines in the press now and then, especially on prohibition and the way you see it. We have a new way to get booze down here—not that I get it. Get three cans of canned heat; take the contents in center of handkerchief and squeeze; to the product add contents of one bottle ginger ale; and there you are.

I have not brought here any letters from societies which are organized for either the purpose of amending the Volstead Act or who may have passed resolutions opposed to the act, though I have received many of them. I have even received resolutions, which to me are most extraordinary which have been passed by a city council of a town, unanimously and signed by the mayor, complimenting me on having addressed the Senate on this subject and having criticised the Volstead Act. A municipal body elected by the people. With the permission of the Senate I desire to put a few of the letters I have received in the RECORD.

The VICE PRESIDENT. Without objection, permission to do so will be granted.

The letters are as follows:

SLATER, MO., *January 13, 1926.*

WALTER E. EDGE,

United States Senate, Washington, D. C.

MY DEAR SIR: I take a great interest in what is transpiring in the House and Senate during each session and try to keep up the reading of the RECORD.

I read with great interest your remarks on the question of prohibition a few days ago and I am sure that you are exactly right with reference to the matter.

I am employed as a freight conductor on the Chicago & Alton Railroad, and have been running between Kansas City, Mo., and Roodhouse, Ill., for 21 years. I recall the time when there were only two licensed towns between these two points, and it was absolutely impossible for anyone to purchase liquor at any town other than the two licensed towns. It is true that during those times there was a considerable amount of travel on the passenger trains to those towns, and there was, of course, some trouble with men who would imbibe too freely and try to get on the trains.

I noticed that Senator WILLIS, of Ohio, made reference to that feature of enforcement, which, no doubt, he tried to convey the idea that because of this class of travel on the trains it was due to prohibition. I would say to the gentleman or anyone else that it has reached the point where it is unnecessary for that same element to leave town in order to get a sufficient supply of liquor to get "soused," because there is an available supply in the little town where they are now living.

While I am not a man who uses liquor, I feel safe in saying to you that it is possible to buy liquor, such as it is, in any town between Kansas City and Roodhouse. On the 9th day of this month I was passing through a little town—Hillview, Ill.—and as we pass right in front of the main street of the town it is easy to see what is going on. I noticed one gentleman for whom the main street was made too narrow, and that included the width of the sidewalk. He did not have to leave home to get the load he had.

On the 10th day of this month I was in the sidetrack at Higbee, Mo., and there was a traveling salesman who had been for three days trying to sober up enough to get out of town, and each time he would seem to be in condition to make the next train he would go over in town somewhere and reload his tank, and the last I saw of him he was lying sprawled out on a dirty waiting-room floor mumbling to those who were standing over him, "Fo' Go' sake, boys, my wife's comin'; keep you d—n mouth shut; don't say nothin'."

I set out a car at a little town near Kansas City by the name of Grain Valley, Mo., and, due to the fact that there is no agent on duty during the night hours, it is our duty to place the waybills in a box near the bay window on the station. I opened the bill box to put the bill in it and found a half-pint bottle full of something that smelled more like turpentine than it did like something for a human being to drink.

I am inclosing a piece that I wrote some time ago, and if there is anything about it that you would like to use, you have my permission. I would like to have it back, however, after you have finished with it. I feel as you do. Permit the sale of a harmless beer and the bootlegger will immediately be put out of business and many American youth will be saved. Congress will have to do the job, because the bootlegger would vote down anything that would run him out of business.

Very truly yours,

R. MCD. SMITH, Jr.

SYCAMORE, KANS., *December 31, 1925.*

Senator EDGE,

Senate Chamber, Washington, D. C.

MY DEAR SIR: I note by the press that the test vote on the prohibition law will come up before the Senate soon, and as an American citizen and one deeply interested in the welfare of the people of these United States will give my views on the present law and its enforcement. I voted for the prohibition amendment, thinking Congress would pass a law regulating the sale of intoxicants that had some redeeming feature in it, but I found I was fooled, and on account of the same the country is overrun with bootleggers and bad whisky. It's almost impossible to have a social gathering here now without a lot of roughneck drunks attending. Our jails and penal institutions are filled with young men and some girls. When saloons sold beer and whisky drunken girls were an unusual thing, but now it's common, and unless we can have a law regulating the sale of light wines and beer based on common sense and reason, better repeal the law and save lots of lives and millions of dollars. There are lots of people in this locality, like myself, thoroughly disgusted with the manner and methods of the law's enforcement. I firmly believe if light wines and beer could be manufactured and sold under State or Government restrictions, it would be a grand improvement over the law we have. It appears to me that the ones intrusted with the enforcement of the law have lost sight of all other laws, and on that account all manner of crimes are on the increase. If you can use this to any advantage, you are at liberty to do so. I am over 80 years of age and a native-born American and would like to have a little common sense and reason incorporated in some of our laws, so that a majority of the people would have some respect for them.

I am yours truly,

J. F. MAYO.

PHILADELPHIA, PA., *December 16, 1925.*

Hon. WALTER E. EDGE,

United States Senate, Washington, D. C.

DEAR SENATOR EDGE: I note by the newspapers that you have introduced a bill in the Senate providing for a modification of the Volstead Act. I have also read an account of your address in the Senate on the wet and dry question, delivered Tuesday, December 15. Please accept my personal congratulations and also the thanks of our association for the sensible position you have taken as a legislator on this piece of sumptuary legislation, the Volstead Act. I can assure you we are in full accord with the sentiments expressed in your admirable address on the date above mentioned.

Sincerely yours,

JAMES MALONEY,
President, Glass Bottle Blowers' Association of the United States and Canada.

KANSAS CITY, KANS., *December 15, 1925.*

WALTER E. EDGE,

Senate Office Building, Washington, D. C.

MY DEAR SENATOR: In the press to-day I note with deep satisfaction the stand you have taken relative to the modification of the Volstead Act.

I want to extend my congratulations for the move you have just made, as it will have the tendency to reestablish some of the liberties to the American people that have been denied them by the constitutional amendment. Not that I am a drinking man, in any sense, for I have thrice voted for prohibition, but have discovered too late that I have thrice been mistaken, as it appears to me at this writing, more than any other time, what we need in this country is less law and more liberty; or, in other words, to get back to the teachings of Washington and Jefferson.

With all good wishes, I am

Yours very truly,

E. E. HARTER,
401 North Seventh Street, Kansas City, Kans.

Mr. EDGE. I wish to conclude by expressing the sincere hope that all of us will enter upon this great responsibility impersonally and will invite a cooperation that will help solve what to me is the most serious problem that has faced this country, certainly since the World War.

When we recognize the facts as presented, when we recognize the facts as we know them without their being presented through the method or medium of statistics, when we recognize the facts as we come in contact with them day by day when we meet our fellow citizens outside the public limelight and they all practically admit the situation, can we, as public servants, sit supinely by and defend an act under which this country has reached such a deplorable, intolerable, indefensible position so far as observance of or reverence for the law is concerned? Some of us will remain at our posts irrespective of insinuations that to propose remedies subjects us to suggested deportation. To amend an unworkable law is not an invitation to violate a law.

Mr. BROUSSARD. Mr. President, I shall detain the Senate only a few minutes.

We have been given voluminous statistics to show the decrease of drunkenness and the consumption of hard liquors in this country since the advent of prohibition. My purpose is merely to call attention to, and to put into the RECORD, statements which contradict this absolutely, and which show that the contrary is the case.

We have in the hearings before the Subcommittee of the House Committee on Appropriations, in support of the appropriations for the Treasury Department now pending, held only a few weeks ago, the statement of Mr. James E. Jones, who is the Director of Prohibition in the Treasury Department in Washington. Mr. Jones being, as these hearings show, practically in charge of the administration of the prohibition law, is, of course, familiar with the statistics.

A number of Senators have urged before the Senate, and have by means of publicity made an effort to show, that the consumption of liquor has decreased and that drunkenness has decreased.

On page 359 of these hearings, which are on the desk of every Member here, Mr. Jones was asked by the chairman of the subcommittee the following questions:

The CHAIRMAN. Have you a record of the number of arrests for the year before?

Mr. JONES. It is in your previous hearing. The number was 68,161. In addition to that, there were 12,918 persons arrested by State officials assisted by Federal agents during the fiscal year 1925. Our agents have been instructed to cooperate as far as possible with State officials, so as to get them to do the work themselves if we can.

The CHAIRMAN. That makes about 75,000?

Mr. JONES. Yes, sir. That, of course, is more than it was during the previous year. In addition to that, there were 1,473 people arrested by State officers on information furnished by Federal officers. That is, where the State officers made the arrests themselves.

Reading a little further, we will find the reason why they urged State officers to cooperate with them.

Mr. THATCHER, who was a member of the committee, propounded this question:

Mr. THATCHER. And they were prosecuted in the State courts.

Mr. JONES. Yes, sir.

Mr. BRITT. That has been found to be more advantageous.

Mr. JONES. We think it is more advantageous, because in many States punishment is more severe than under the Federal act, and the dockets of the State courts are not as congested as the dockets of the Federal courts.

So wherever in any State statutes are found to be more severe in the infliction of punishment these officers make a request upon the local authorities, the State authorities, to accompany them, so as to inflict a greater measure of punishment than that provided under the Volstead law. Notwithstanding this increased penalty, the prohibition enforcement department find that arrests have increased; but this is also shown by the court records that are given here.

We find on page 374 that Mr. Jones, under the heading of "Convictions," gave the number of people who were convicted. Mr. Jones testified as follows:

The convictions under the national prohibition act in Federal courts, in which prison sentences were imposed, for the last four fiscal years, were as follows: In 1922 the number of convictions was 22,749; the total jail sentences aggregated 1,552 years; and the average sentence was 24 days. In 1923 the number of convictions was 34,069; the total jail sentences aggregated 2,003 years; and the average sentence was 21 days. In 1924 the number of convictions was 37,181; the total jail sentences aggregated 3,497 years; and the average sentence was 34 days. In 1925 the number of convictions was 39,072; the total jail sentences aggregated 4,569 years; and the average sentence was 43 days, as against 34 days for the previous year; 21 days for 1923, and 24 days for 1922.

You will see, Mr. President, that from the year 1922, when the convictions were 22,749, they increased until during the year 1925 they aggregated 39,072, which is an increase of practically 7,000 during that period of three years; but, further, we find this significant statement made by Mr. Jones in this hearing. He followed the figures given by adding this very significant statement:

As I have stated before this committee a number of times previously, we can never enforce this law by fines. It is no better, we think, than low licenses.

Our friends who are supporting the prohibition law, and who are against modification so as to have it conform to the spirit of the eighteenth amendment, should not try to misrepresent the honest convictions of people who are in sympathy with it, but, due to their familiarity with the facts and the figures, are bound to admit them, as Mr. Jones says, and I wish to repeat what he said:

As I have stated before this committee a number of times previously, we can never enforce this law by fines. It is no better, we think, than low licenses.

So when we are confronted with an admission of that kind on the part of the Director of Prohibition we should realize that these are facts and try to meet that situation and not try to misrepresent to the country the actual experience of the administrators of this law.

Mr. FESS. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Louisiana yield to the Senator from Ohio?

Mr. BROUSSARD. Yes, sir.

Mr. FESS. Mr. Jones means that the law must be supplemented by imprisonment, does he not?

Mr. BROUSSARD. Certainly; and that is what I was about to take up. Does the Senator advocate penal servitude for a man who violates the prohibition law?

Mr. FESS. I will very quickly vote for imprisonment.

Mr. BROUSSARD. Would the Senator advocate capital punishment?

Mr. FESS. Oh, not necessarily.

Mr. BROUSSARD. Not necessarily?

Mr. FESS. I do in some cases.

Mr. BROUSSARD. In some cases the Senator would?

Mr. FESS. Yes.

Mr. BROUSSARD. I thought so; and that is what you are bound to come to under prohibition. You can not enforce it, nor can you change the habits of people and the appetites of people for a thing which they do not in themselves regard as being immoral, simply by statutory law, unless you go back to the days when they hung a man for stealing a slice of bread—a practice which has been abandoned by civilization ages ago. You are now advocating a return to such penalties, and I am not surprised at it. The logic of the arguments advanced by the prohibitionists will lead them to that conclusion.

Mr. FESS. Mr. President, will the Senator yield further?

Mr. BROUSSARD. Yes, sir.

Mr. FESS. Why not enforce the law by imprisonment, if that is the effective way, rather than permit the low license?

Mr. BROUSSARD. I call the attention of the Senator to the fact that there is not a single case cited here of these thousands of cases where imprisonment was not imposed. It was imposed in every one of them. Take the statistics for 1922: There were 22,749 convictions. The total jail sentences aggregated 1,552 years. They are not merely fines. There was a jail sentence imposed in every one of those cases cited during 1922, 1923, 1924, and 1925. That is why I ask if the Senator is in favor of penal servitude or capital punishment, because your jail sentences are not accomplishing absolute prohibition any better, according to Mr. Jones, than your low license did.

Mr. FESS. Mr. Jones was speaking about the necessity of the imprisonment element added to the fine. That is the only thing to which I was calling the Senator's attention.

Mr. BROUSSARD. But Mr. Jones's statistics—the Senator has it, or, if not, he can easily get it—does not deal with any cases except those where imprisonment was inflicted as a penalty. He does not deal with the fines at all. Those are prison terms.

Mr. FESS. But the commissioner said that the law can not be enforced by fines. He does not mean that it can not be enforced by imprisonment.

Mr. BROUSSARD. I construe that to mean exactly as the Senator's position is, that it must be made a felony and not remain a misdemeanor.

Mr. FESS. Why should it not be a felony?

Mr. BROUSSARD. That is a question of opinion, as to what it should be.

Mr. FESS. A violation of a statute that is important is not merely a misdemeanor. It may reach the stage of being a felony.

Mr. BROUSSARD. What is a felony, may I ask the Senator?

Mr. FESS. A felony is an offense that is punishable by imprisonment.

Mr. BROUSSARD. Only such offenses are made felonies as are immoral or crimes in themselves, per se, and not merely regulatory ordinances.

Mr. FESS. Let me state to the Senator that, having tried the fine and the fine having proven ineffective, I am ready to vote for an amendment to the Volstead Act, providing the amendment is to be more rigid, that will give greater effectiveness in its enforcement; and I am ready to try imprisonment if the fine is not effective.

Mr. BROUSSARD. I am sure the Senator is. I prefer to accept the other alternative, however, and that is to modify the Volstead law so as to make it conform in spirit and letter to the eighteenth amendment, rather than to send people to the penitentiary for violating the prohibition law.

Mr. FESS. Here is what disturbs me: The people who oppose the eighteenth amendment and also oppose the Volstead Act are now very anxious to change either if they can and give as the reason for changing that neither can be enforced. That does not appeal to me.

Mr. BROUSSARD. I do not know why the Senator should say "now," because so far as I am concerned I have always been in favor of modification of the Volstead law. I was opposed to it, because I thought it was not in keeping with the eighteenth amendment and contravenes it.

Mr. FESS. The Senator is opposed to the present law for the same reason that he opposed it originally?

Mr. BROUSSARD. Certainly. I have had no reason to change my position. I have more reason to oppose it now than I had then, because my argument then was merely an assumption, and the facts have turned out to be much more serious than I anticipated.

Mr. FESS. The suggestion of an amendment to a law has considerably greater force with me if it comes from somebody

who is a friend of the law rather than from somebody who is an enemy of it.

Mr. BROUSSARD. Does the Senator contend that a prohibitionist is more loyal to his Government or more capable of proposing an amendment to the law than an antiprohibitionist?

Mr. FESS. I contend that a man who believes in the enforcement of a law is more friendly to the law than one who opposes the enforcement of it.

Mr. BROUSSARD. To be sure; and if we should follow the Senator from Ohio, we would hang people for violating the prohibition law.

Mr. FESS. Oh, that is no argument.

Mr. BROUSSARD. It is an argument. We are warned beforehand that we can not follow the Senator. If the Senator will advocate an amendment of this law, we will all gladly vote for it; but he is advocating the infliction of more severe penalties for a violation of the law.

Mr. FESS. That is the sort of an amendment I would be willing to vote for.

Mr. BROUSSARD. Why does not the Senator offer one simply to modify the Volstead law, instead of to send people to the penitentiary? He should offer one to try to meet the situation which all admit exists at this time.

Mr. FESS. It will be offered in time.

Mr. BROUSSARD. I hope so.

Mr. EDGE. Is it not a fact, Mr. President, that the so-called defenders of the Volstead Act refuse to admit that it needs amendment? Therefore it seems to be unescapable that any amendment must be offered by those who are opposed to the Volstead Act, like the Senator from Louisiana. I voted against the Volstead Act six years ago when it was before the Senate, and expressed my reasons then for my action, and because the prophecies we made then have turned out to be true, with interest, as the Senator has said, is no reason why we should not be continuing consistently our efforts to correct what we regarded as a mistake.

Mr. BROUSSARD. If we pursued any other course, we would be inconsistent.

Mr. EDGE. Exactly.

Mr. FESS. It would appear to me, if the Senator will permit, that you can not take as the view of the whole United States one which comes from the metropolitan district of New York City.

Mr. BROUSSARD. Oh, no.

Mr. FESS. Or New Jersey.

Mr. BROUSSARD. May I interrupt the Senator to say that I am taking the report of the Director of Prohibition for the whole United States?

Mr. FESS. In which he is appealing for a more rigid regulation because fines alone are not effective.

Mr. BROUSSARD. That is the Senator's interpretation. Mr. Jones does not say that, but he says that fines are no more effective than low licenses, and we abandoned the low-license system 50 years ago. When the movement for prohibition was under way, wherever prohibition had not been adopted there were high licenses and the regulation of saloons.

Mr. EDGE. I would like to ask the Senator a question. As I understand the colloquy between the Senator from Louisiana and the Senator from Ohio, it has now reached the point where the Senator from Ohio is prepared to have a violation of the Volstead Act treated as a felony, the crime being the possession of, the manufacturing, or the consuming of a beverage containing one-half of 1 per cent alcohol, providing it is not wine or cider.

Mr. BROUSSARD. Yes.

Mr. EDGE. If it is wine or cider, then he is still an innocent citizen.

Mr. BROUSSARD. It may be 8 or 10 per cent. That is the ruling of the department, and it was purposely so written, as I understand it. The designation of one-half of 1 per cent in the beginning of the act made it a crime to consume or to use or sell or transport anything containing over one-half of 1 per cent; but when they dealt with fruit juices they were afraid to tackle such a large portion of their constituency in the rural districts who had apples and fruit juices, and they wrote a separate statute.

Mr. EDGE. In other words, it was a subterfuge.

Mr. BROUSSARD. As I called to the attention of the Senate in 1921, when the first regulation to enforce the prohibition law was written, the regulation was written and sent to Congressman Mott, of New York, who was the owner of an ale factory, accompanied by a letter in which the opinion was given to him that beer and ale were not intended to be included in the statute. Then that letter was recalled and the regulation was never issued. That is a matter of record here. An attempt was made three years ago by Congressman HILL to get a ruling on fruit juices, but the department refused to give it, until finally Mr. HILL had to cause his own arrest and go to court in a case in which the court held that a beverage made from fruit juices had to be intoxicating in fact.

Mr. EDGE. That has gone through several courts.

Mr. BROUSSARD. Yes; that has gone through several courts.

Mr. EDGE. And it has been accepted by the Attorney General.

Mr. BROUSSARD. We find people who advocate this law, who subscribe to it, because they have not proposed any amendment to that part of it, who would send a man to the penitentiary and hang him for making 1 per cent beer.

Mr. EDGE. One-half of 1 per cent.

Mr. BROUSSARD. Over one-half of 1 per cent.

Mr. EDGE. No; one-half of 1 per cent.

Mr. BROUSSARD. That would be included. That is low enough.

Mr. SHEPPARD. Who would hang a man for making 1 per cent beer?

Mr. BROUSSARD. I trust that the Senator from Texas would not hang anybody for anything.

Mr. SHEPPARD. Who would hang a man for making 1 per cent beer?

Mr. BROUSSARD. Would the Senator hang a man for violating the Volstead Act?

Mr. SHEPPARD. I would not.

Mr. BROUSSARD. I did not think the Senator would.

Mr. BRUCE. Mr. President——

The PRESIDING OFFICER (Mr. EDGE in the chair). Does the Senator from Louisiana yield to the Senator from Maryland?

Mr. BROUSSARD. I yield.

Mr. BRUCE. I understood the Senator from Ohio to say that he might be in favor of the infliction of capital punishment?

Mr. FESS. The Senator from Ohio answered the Senator from Louisiana when he asked him if he believed in capital punishment in any case, and I said I did in some cases.

Mr. BROUSSARD. Oh, no; I did not understand the Senator to say that.

Mr. FESS. For murder in the first degree.

Mr. SHEPPARD. The Senator from Ohio misunderstood the question of the Senator from Louisiana.

Mr. BROUSSARD. I have not yielded to the Senator from Texas. Let the Senator from Ohio answer and explain what he meant.

Mr. FESS. The Senator from Ohio explained his statement. The Senator from Louisiana asked the Senator from Ohio whether he was in favor of capital punishment in any case.

Mr. BROUSSARD. For violating the Volstead Act.

Mr. FESS. The Senator said in any case, and I replied, "In some cases." The "some cases" I had in mind are cases of murder in the first degree.

Mr. BROUSSARD. The Senator's statement is in the RECORD.

Mr. BRUCE. Mr. President, will the Senator yield?

Mr. BROUSSARD. I yield.

Mr. BRUCE. I just want to say that I am afraid that capital punishment applied to violations of the Volstead Act would result not only in the decapitation of a good many ordinary citizens but perhaps of a good many officials in Washington.

Mr. BROUSSARD. Now, I will continue with the figures given by Mr. Jones, because after dealing with the convictions the inquiry very naturally would occur, how many cases are pending. It is possible that more cases were tried in 1923 than in 1922. Let us see if there are fewer cases left on the docket after the increase of convictions. On page 375, Mr. Jones was asked by the chairman:

How many cases are there?

Meaning cases pending. Mr. Jones replied:

At the close of the fiscal year 1921 there were 10,365 cases pending; at the close of the fiscal year 1922 there were 16,713 cases pending; at the close of the fiscal year 1923 there were 23,052 cases pending; at the close of the fiscal year 1924 there were 22,380 cases pending; at the close of the fiscal year 1925 there were 25,334 cases pending.

So that while there were 10,365 cases pending at the close of the fiscal year 1921, we find that at the close of the fiscal year 1925 there were 25,334, which is an increase of 150 per cent.

Those are cases under the national prohibition act—

Said Mr. Jones.

Mr. President, I do not think these figures may be successfully contradicted. I am inserting them in the RECORD merely for the purpose of enabling people to get the accurate records.

Mr. SHEPPARD. Did the Senator give the amount of the fines?

Mr. BROUSSARD. No; those are jail sentences; they are not fines. There are no fines mentioned. Those are prison cases. The Senator will find them on pages 374 and 375 of the hearings before the Subcommittee of the House Appropriations Committee.

There is another question to which I merely want to call attention. The Senator from Washington referred to the fact that the courts have held that the designation of one-half of 1 per cent is constitutional. A great many people are impressed with the idea that when a court has held that such a provision is constitutional it can not be changed. It merely means that the definition of an intoxicating liquor is one purely within the discretionary powers of Congress. It will be remembered that during the World War, when we had 2.75 per cent beer, the court held it was not intoxicating. And for the same reason it was declared that beer containing over one-half of 1 per cent was intoxicating. A court can not legislate in this matter. It must accept the definition fixed by the Congress, and whatever the Congress fixes as the amount is accepted by the court as being the limit. The fact that the Volstead law defined intoxicating liquor as that containing one-half of 1 per cent is merely a holding that the Congress had the authority to enact such a foolish law. That is all it means.

Mr. SHEPPARD. Mr. President, six years ago to-day national prohibition went into effect. The operation of national prohibition in the United States for six years finds this measure of increasing benefit to the United States. During 1925 hundreds of leaders in industry, education, and trade in this Nation publicly emphasized the value of prohibition. Judge E. H. Gary, of the Steel Corporation, said that he was more and more satisfied that prohibition legislation should have been passed and continued without amendment, and that it should be more rigidly imposed.

Mr. BRUCE. Mr. President, if the Senator would rather not be interrupted, I will not interrupt him, but I did want to ask him if the fact had been called to his attention that an explicit statement has been made that Judge Gary himself is in the habit of using intoxicants as freely as he sees fit to do so, notwithstanding his very strong views about the expediency of prohibition generally. That statement was made by no less a person, as I recollect, than Capt. W. H. Stayton, the head of the National Association Against Prohibition, and it has never been denied, so far as I know.

Mr. SHEPPARD. He is a truthful man, nevertheless.

Mr. BRUCE. Who is?

Mr. SHEPPARD. Judge Gary.

Mr. BRUCE. So is Captain Stayton.

Mr. SHEPPARD. Then the Senator may take his choice between the two.

Mr. BRUCE. We have no means of knowing how truthful Judge Gary is, because he has never replied to the charge.

Mr. BLEASE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Texas yield to the Senator from South Carolina?

Mr. SHEPPARD. I yield.

Mr. BLEASE. Is Judge Gary the only man the Senator from Maryland knows of who favors prohibition for other people but drinks liquor himself?

Mr. BRUCE. I sometimes honestly doubt whether anybody is sincerely in favor of prohibition, except the Senator from Texas and the Senator from Washington, two of the worthiest Members of this body.

Mr. SHEPPARD. Whether Judge Gary drinks or not, I do not think the force of his statement is affected. Judge Gary said he was more and more satisfied that prohibition legislation should have been passed and continued without amendment, and that it should be more rigidly imposed.

President J. E. Edgerton, of the National Association of Manufacturers, said that the abnormal lawlessness of the time could not reasonably be attributed to prohibition; that but for prohibition the general revolt against constituted authority in every field of activity that has followed the World War would have had an infinitely worse effect; that a blind tiger was less dangerous than one with two good eyes. Arthur R. Baxter, Indiana manufacturer, said that from an economic standpoint prohibition was the greatest asset of America. W. B. Storey, president of the Santa Fe Railway system, said that from the standpoint of railroad operation the eighteenth amendment had been very helpful to that system; that it had reduced greatly drinking among the rank and file of the employees in spite of the bootlegging which was going on. Carl R. Gray, president of the Union Pacific Railway system, said that the national prohibition laws had greatly aided that system's efforts for sobriety among employees. J. P. Reeves, treasurer of the Chicago & Eastern Illinois Railway Co., said that he is still firmly of the belief that prohibition as fixed by the eighteenth amendment was an epochal step for American welfare. M. M. McCall, Alabama banker, said that he did not see how anyone favoring better living conditions could possibly favor any slackening of our prohibition laws. Rockwell D. Hunt, professor of economics, University of Southern California, said that the Nation's decree against the liquor habit was a just judgment; that the beneficial results of prohibition are being felt on all sides. Otis N. Pierce, Massachusetts manufacturer, said that as an employer he knew that prohhibition was of great benefit to the laboring class; that his welfare workers were strongly in favor of it on this account. W. H. Cowdery, Ohio manufacturer, said that as a result of prohibition employees who formerly wasted a portion of their wages in drink were better workmen, better husbands, fathers, and citizens. S. S. McClure, the famous New York editor, said that he regarded prohibition in America as one of the most important advances made in civilization.

These are typical instances of the testimony of numerous Americans in the front ranks of American life during the sixth year of national prohibition. What an inspiration these statements should bring to us all. What renewed determination to make prohibition in the coming year a greater blessing than ever before. Undoubtedly as a result of prohibition the average American is to-day in better economic condition than ever before. While he is still far from complete economic independence, his life expectancy is longer, his savings greater, his range of opportunity larger, his pursuit of happiness more certain of realization than in the era of the open saloon.

Prohibitionists fling this challenge to the wets. If they say that nation-wide prohibition is losing its hold on the American people, we challenge them to a vote at any time in either House of the American Congress. Three Houses have been elected and every seat in the Senate has been the subject of an election since national prohibition went into effect. If prohibition is less strong to-day than then, the vote in either House is the surest test. That vote will show that prohibition retains its popularity, supremacy, and permanency.

Richard H. Scott, president of the Reo Motor Car Co., recently presented the effect of prohibition upon industry from the business man's viewpoint in the following statement:

> The business man sees prohibition's results, not in terms of moral issues or personal appetites, but in the dual terms of business—production and distribution. Especially noteworthy have been the effects upon production. The efficiency of the average worker was increased. Factories were more nearly able to work up to the reasonable expectation of their machine power. Instead of dulled minds, unsteady muscles, and jumping nerves after the holiday of Saturday afternoon and Sunday, the workers began the week on Monday with full power. From being one of the poorest production days of the week, Monday became as good a day as any on the calendar. The slackened pace formerly noted after the noonday visit to the saloon for a glass of beer vanished. The efficiency of the factory force was increased and steadied.
>
> Fewer machines were idle because of the absence of workers through illness due to drink. The labor turnover, a costly factor in manufacture, dropped and has remained comparatively low. For almost the first time production engineers were able to estimate with accuracy the output and the production costs of any unit of a plant.
>
> The average cost of industrial accidents is about $3,500, according to the recently published estimates based on Illinois experience. Where prohibition was genuine these accidents decreased greatly, lowering production costs by millions of dollars.
>
> These factors in the business problem—increased efficiency per worker, continuity of machine output due to fewer absences of workers, lowered labor turnover, and fewer accidents—would have been sufficient to change the red-ink figures of loss to a substantial profit so far as production is concerned. In each of these factors prohibition turned the tide.
>
> Distribution is the other element in business. Products must be sold. Prohibition created new markets for our products. New standards of living were set, 19 per cent higher than when prohibition arrived, according to Secretary Hoover. Instead of a pail of beer, the worker bought oil and gasoline. Better homes, better furniture, better clothes, more amusement were demanded. The wage check that once went into the bartender's till began to travel to the local merchant. The increased production made possible by sober workers was consumed steadily by a sober Nation. We made and bought more goods than we had believed this country could absorb. In the automobile business we have several times passed the "saturation point" set by

very careful business students. Every economic theory would seem to justify the belief that we were overproducing in many lines and were due to pass through a period of depression until we absorbed the surplus of products. All signs fail in dry weather, however. The saloon is closed. The bootlegger is making a lot of noise but not doing business enough to interfere with trade. The great mass of the people are sober, making money, buying luxuries as well as necessaries of life, banking undreamed sums, and keeping business steadily on the high plane of prosperity in spite of all the prophets of disaster.

The credit business done in the past five years has been one of the most significant and interesting developments to a business man. Automobiles, houses, clothes—anything and everything—can be bought on credit. It is the essential fabric of business. No other era or country ever saw the parallel of the present American extension of credit to practically everybody who desires it. Men who could not have "hung up" the bartender for a drink in the old days are now considered good risks for a motor car. To our coinage motto, "In God we trust," we have added the new one, seen in thousands of advertisements and on multitudes of stores, "Your credit is good here." Prohibition raised the credit rating of practically every human being in America.

The relation of prohibition to prosperity is set out by the Secretary of Commerce, Hon. Herbert Hoover, in an interview which appeared recently in the Christian Science Monitor.

There can be no doubt of the economic benefits of prohibition, he said.

The published interview continued as follows:

Mr. Hoover declared that whereas the moral effects can not be correctly or accurately ascertained, one can get an exact measure of practical results in commercial affairs. He stated that since the war productivity has increased from 25 per cent to 30 per cent instead of 15 per cent which would have been the expected increase caused by the increased population and other factors. He said:

"There can be no doubt of the economic benefits of prohibition. Viewing the temperance question only from this angle, prohibition has proved its case. I think increased temperance over the land is responsible for a good share of the enormously increased efficiency in production, which statistics gathered by the Department of Commerce show to have followed passage of the dry law.

"Exhaustive study from many angles of production over average periods 10 years apart, before and since the war, would indicate that while our productivity should have increased about 15 per cent due to the increase in population, yet the actual increase has been from 25 to 30 per cent, indicating an increase of efficiency of somewhere from 10 to 15 per cent."

Pointing out specific instances of where this unparalleled increase in efficiency has shown itself, Mr. Hoover mentioned agriculture. He said there has been no increase in the number of farmers during the decade, and yet agriculture has increased its average exports from about 7,500,000 to 17,500,000 tons annually. This would show, he said, that the individual farmer has increased his efficiency in production from 15 to 30 per cent.

Mr. Hoover showed that this increase in productivity in farming and in other pursuits has resulted in increasingly high standards of living for the Nation, giving to more people motor cars, electric lights in houses, more telephones, and better living quarters. The rough total of all this gain shows, he said, that America can supply each person with the same amount of commodities that he consumed 10 years ago, with a saving of the services of 3,000,000 persons whose time could be devoted to other work.

BUILDS NATION'S SAVINGS

Mr. Hoover stressed the fact that he was not confusing the increase in productivity which he said was due to prohibition, improved labor-saving devices, and the elimination of wastes in industrial administration with the ordinary increment that would arise from increased population and the increased dollar figures due to higher prices. The increase for which he found prohibition largely responsible, he said, was over and above this natural increase, and was an actual gain in commodities and services, per capita of the population.

"There is no question in my opinion," Mr. Hoover told the Monitor representative, "that prohibition is making America more productive."

He indicated that if the arguments on the pro and con of temperance were confined to this one issue, namely, of whether or not the dry law is showing itself financially valuable to the country, there could be no doubt that it was putting money in the American family pocketbook.

Mr. President, prohibition is giving us every day, in my judgment, a better and happier United States.

The Senator from New Jersey [Mr. EDGE] referred to the city of Dallas, Tex. I want to say that the amount of bootleg liquor sold in Dallas and its great tributary territory, according to the estimates of the official quoted by the Senator from New Jersey, is exceedingly small in comparison with the amount sold in preprohibition days. And this same condition will apply generally. There has been a vast decrease in drinking and drunkenness in the United States when we compare the present situation with the situation before the advent of nation-wide prohibition.

NOTICE OF SPEECH

Mr. HARRISON. Mr. President, I desire to give notice that at the earliest opportunity on Monday I shall occupy the time of the Senate for a few moments with a speech.

EXECUTIVE SESSION

Mr. FESS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session, the doors were reopened and (at 6 o'clock and 10 minutes p. m.) the Senate, pursuant to the order previously made, took a recess until Monday, January 18, 1926, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate January 16, 1926

COMMISSIONER OF EDUCATION OF PORTO RICO

Juan B. Huyke.

PROMOTIONS IN THE ARMY

B. Frank Cheatham to be Quartermaster General, with the rank of major general, Quartermaster Corps.
Harry Cooper Barnes to be colonel, Coast Artillery Corps.
John Carlyle Fairfax to be lieutenant colonel, Infantry.
Allan Francis McLean to be lieutenant colonel, Cavalry.
Otto Wilhelm Gralund to be major, Finance Department.
Horace Grattan Foster to be major, Finance Department.
Jess Garnett Boykin to be captain, Cavalry.
John Charles Macdonald to be captain, Cavalry.
Hugo Peoples Rush to be first lieutenant, Air Service.
John William Wofford to be first lieutenant, Cavalry.
William Schuyler Woodruff to be major.

POSTMASTERS

ARIZONA

Joseph P. Downey, Miami.

IDAHO

Justin B. Gowen, Caldwell.
Louis E. Diehl, Eagle.
Harold P. Kahellek, Fernwood.
Chester O. Cornwall, Rupert.

ILLINOIS

Arthur H. Gross, Atwood.
George E. Simmons, Avon.
Roy Arseneau, Bourbonnais.
Paul W. Gibson, Louisville.
Leroy Howell, Zeigler.

NEVADA

Jeanann M. Fay, East Ely.

NORTH DAKOTA

Noyes H. Whitcomb, Flasher.

PENNSYLVANIA

Craig M. Fleming, Chambersburg.
Samuel W. Koppenhaver, Halifax.
Lloyd H. Bressler, Hegins.
Paul A. Hepner, Herndon.
Anna M. Eisenhower, Intervilla.
Ralph E. Kelder, Matamoras.
Dunham Barton, Mercer.
Thomas H. Kelly, Moores.
Charles H. Welch, Mount Union.
Ulysses Breisch, Ringtown.
Hugh A. Feeley, Silver Creek.
Pearson H. Hinterleiter, Topton.

SOUTH DAKOTA

William A. Dalziel, Davis.
Leon W. Kreidler, Fulton.
Tillie M. Cowman, Gayville.
Myrtle M. Giles, Lane.
Adeline P. Shoun, New Underwood.
Ira S. Myron, Volin.

WASHINGTON

Hugh Eldridge, Bellingham.

WEST VIRGINIA

Lora F. Harvey, Gormania.
Leonore V. Hood, Lowsville.
Lilly Moser, Paw Paw.
James W. White, Webster Springs.

HOUSE OF REPRESENTATIVES

SATURDAY, *January 16, 1926*

The House met at 12 o'clock noon, and was called to order by its Clerk, William Tyler Page, who read the following letter:

THE SPEAKER'S ROOM,
HOUSE OF REPRESENTATIVES, UNITED STATES,
Washington, D. C., January 16, 1926.

I hereby designate Hon. JOHN Q. TILSON to preside during my absence.

NICHOLAS LONGWORTH.

Mr. TILSON took the chair as Speaker pro tempore.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

O God, who art above all and over all, we beseech Thee to hear us while we wait in Thy holy presence. On the breath of our prayer is the confession of our sins—forgive us. Deepen our sympathies toward all men who are burdened. Give us the promise of the daydawn, living in the inspiration of faith and hope. Broaden our understanding of all the needs and problems of our country. May we continue to have those aspirations that make character chivalrous, brave, and true. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

EXTENSION OF REMARKS

Mr. TYDINGS. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by inserting therein a speech delivered by Gov. Albert C. Ritchie, of Maryland, at Chicago, on the 8th day of January last.

The SPEAKER pro tempore. The gentleman from Maryland asks unanimous consent to extend his remarks in the RECORD by printing therein a speech delivered by Governor Ritchie. Is there objection?

Mr. BEERS. I object.

Mr. BLANTON. Reserving the right to object, if they were the gentleman's own remarks I would not object, but they are the political remarks of a governor whose speech incites people against the Constitution.

Mr. TYDINGS. May I say to the gentleman from Texas that he is entirely mistaken. There is nothing in the speech against the Constitution.

Mr. BLANTON. I have read the speech myself. In effect it advises Americans that they have the right to disobey the Constitution when they feel that it involves no moral issue, and they feel that it is no violation of their individual conscience, which is a dangerous doctrine. I object.

The SPEAKER pro tempore. Objection is heard.

Mr. TYDINGS. Mr. Speaker, I make the point that there is no quorum present.

Mr. GARRETT of Tennessee. Will the gentleman withhold it a moment?

Mr. TYDINGS. I will withhold it.

Mr. BLOOM. Mr. Speaker, with reference to the extension of my remarks bearing on the debt settlement of Italy, I ask unanimous consent to insert a small article from the New York World of yesterday and my comments thereon.

The SPEAKER pro tempore. The gentleman from New York asks unanimous consent to include an excerpt from the New York World in extending his remarks. Is there objection?

Mr. BEERS. For the present I object.

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that I may extend some of my own feeble remarks in the RECORD with reference to the Italian debt settlement.

Mr. BURTON. Mr. Speaker, have not all Members been given that right in the House for five legislative days?

The SPEAKER pro tempore. That permission has been granted for five legislative days.

THE REVENUE BILL OF 1926

Mr. PEAVEY. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the bill H. R. 1, the revenue bill.

The SPEAKER pro tempore. The gentleman from Wisconsin asks unanimous consent to extend his remarks in the RECORD on the bill H. R. 1. Is there objection?

There was no objection.

Mr. PEAVEY. Mr. Speaker and gentlemen, 10 years ago no one could have convinced me that I would live to see the House of Representatives pass a revenue bill such as H. R. 1, the like of which no king or emperor ever dared to impose upon the people of any nation. England, Italy, Japan, France, Germany, Russia—not a single great nation has dared to exempt the war-made rich as America does under the terms of this bill. When the recent gag rule was adopted by the House at the beginning of this session, by the close vote of 208 to 196, a number of Members, including myself, predicted that this was but a forerunner of legislation so reactionary in character and unscrupulous in principle as to require secrecy and darkness by which to pass it rather than daylight and information. Accordingly, debate has been limited, amendments prohibited, and the ways greased so that the bill can go through without the slightest alteration, without even the dotting of an "i" or the crossing of a "t."

Under the conditions in America during the last 20 years the holders of 213 great fortunes exercised more actual political power than any 213 officeholders in the United States. At their dictation Presidents are nominated by the two major political parties; members of the Cabinet and foreign representatives are selected, and their henchmen fill positions such as the Interstate Commerce Commission, the Tariff Commission, and the like, where the Government comes in contact with them. Their influence reaches into the House and Senate, where many Members of Congress dare not oppose them. If there is anyone so unsophisticated as to doubt the truth of these assertions, just let him denounce the system known as "big business," presided over by these 213 aristocrats and then be so bold and disrespectful of his betters as to run for Congress or the United States Senate. I say, just let that unbelieving individual announce his or her candidacy for either office in any State in this Union and he will soon learn of the political power in the hands of 213 persons, who under the terms of this tax bill are given the right to hand that power down from father to son.

FEDERAL INHERITANCE TAX VIRTUALLY REPEALED

Mr. Speaker, the virtual repeal of the inheritance and gift taxes and the abolition of the publicity clause I regard as of the utmost importance to the people of the United States; more vital, even, than the 50 per cent reduction of the taxes of those 213 individuals with incomes in excess of $500,000. Already more than 60 per cent of the wealth of this Nation is being handed down from father to son, and a greater portion of this is owned or controlled by a dozen families, many of whose members reside in Europe. In order to avoid paying their share of the inheritance and income taxes, millionaires would divide up their fortunes and turn them over to their sons and daughters in the form of gifts before they died; so, to stop this leak in our tax laws, the Progressives in Congress amended the law in 1924 by inserting a provision that all such gifts should be taxed. But this Congress not only proposes by this bill to give the rich of America the greater tax reduction, but they go Secretary Mellon one better and repeal the gift tax passed by the last Congress. Where we, in 1924, rosined the seams and filled the splintered hatches of the national revenue ship against evasions by the rich, it is now proposed to pull out all our calking, open up the leaks, and at the same time put the bureaucratic thumb screws upon those whose incomes are small.

THE PUBLICITY CLAUSE—WHY IT IS REPEALED

In order that there might be no possible hitch in the plans of these 213 aristocrats of wealth, they have repealed the limited publicity clause placed in the law during the last session. This provision was mild as compared with the publicity clause in the Wisconsin law, but it was felt to be irksome to the immensely rich, and therefore it was repealed. Under the Wisconsin provision more than $6,000,000 in back taxes has already been collected. The very act of repealing the publicity clause is an acknowledgment of the truth of the charges in the Couzens report and in the independent press of the country, namely, that the present administration of the United States Treasury will not stand daylight inspection, nor will the returns of these individuals of immense wealth bear the public gaze. They propose to pay taxes and collect refunds amounting to millions of dollars in absolute secrecy; they want the people of the United States to take their honesty for granted.